STATE LAW LIBRARY OF MONTANA

Joseph P. Mazurek Justice Building
215 North Sanders Street
PO Box 203004
Helena, MT 59620-3004

Website: courts.mt.gov/library
Email: mtlawlibrary@mt.gov
Phone: 406-444-3660
Fax: 406-444-3603

Legislative History – Montana Session Law

Chapter: 277 Session L: 2009
Bill Number: SB 308

Checklist of Bill History

History and Final Status Sheet	☒
Introduced Bill	☒
Fiscal Note	☒
Third Reading Bill	☒
Final Version of Bill	☒

House	Senate
Committee: Business and Labor	Committee: Business, Labor, and Economic Affairs
Hearing Date(s): 03/13/2009 (Link to Audio) Executive Action on 03/23/2009 (Link to Audio) House Floor on 04/01/2009 (Link to Video) (Second Reading)	Hearing Date(s): 02/03/2009 (Link to Audio) Executive Action on 02/09/2009 (Link to Audio) Senate Floor on 02/12/2009 (Link to Video) (Second Reading)

Conference Committee

Hearing Date(s):

Conference Committee Report:

Compiler Notes

Compiled by: FLR

Date: May 30, 2025

Notes: Compiled for Dept. of Labor and Industry.

(c) the environmental quality council.

Section 2. Authority to accept gifts, grants, and reimbursements. The Montana bureau of mines and geology may accept gifts, grants, and reimbursements to be used for the purposes of [section 1].

Section 3. Codification instruction. [Sections 1 and 2] are intended to be codified as an integral part of Title 82, chapter 2, and the provisions of Title 82, chapter 2, apply to [sections 1 and 2].

Section 4. Effective date. [This act] is effective on passage and approval.

Approved April 17, 2009

CHAPTER NO. 277

[SB 308]

AN ACT REVISING LAWS RELATED TO THE STANDARD PREVAILING RATE OF WAGES FOR PUBLIC WORKS CONTRACTS; PROVIDING FOR WAGE AND BENEFIT SURVEYS AND ALTERNATE METHODOLOGIES; SPECIFYING PAYMENT TERMS FOR APPRENTICES WORKING ON PUBLIC WORKS CONTRACTS; LIMITING TO 10 THE MAXIMUM NUMBER OF PREVAILING WAGE RATE DISTRICTS; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 15-6-157, 15-6-158, 15-6-159, 15-24-3111, 15-70-522, 18-2-401, 18-2-402, 18-2-403, 18-2-407, 18-2-411, 18-2-412, AND 69-3-2005, MCA; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Standard prevailing rate of wages for building construction services. (1) The department shall conduct an annual survey to calculate the standard prevailing rate of wages for building construction services using the process described in this section.

(2) The standard prevailing wage rates adopted under subsection (1) must be set for the districts established pursuant to 18-2-411.

(3) The department shall survey:

(a) electrical contractors who are licensed under Title 37, chapter 68, who perform commercial work;

(b) plumbers who are licensed under Title 37, chapter 69, whose work is performed according to commercial building codes; and

(c) construction contractors registered under Title 39, chapter 9, whose work is performed according to commercial building codes.

(4) The surveys required under subsection (3) must include those wages, including fringe benefits plus travel allowances if applicable, that are paid in the applicable district by other contractors for work of a similar character performed in that district by each craft, classification, or type of worker needed to complete a contract under this part.

(5) The contractor survey must include information pertaining to the number of skilled workers employed in the contractor's peak month of employment and the wages and benefits paid for each craft, classification, or type of work. In setting the prevailing wages from the survey for each craft, classification, or type of work, the department shall use a weighted average wage for each craft, classification, or type of work, except in those cases in which

the survey shows that at least 50% of the skilled workers are receiving the same wage. If the survey shows that at least 50% of the skilled workers are receiving the same wage, that wage is the prevailing wage for that craft, classification, or type of work.

(6) The work performed must be work of a similar character to the work performed in the applicable district unless the survey in the applicable district does not generate sufficient data. If the survey produces insufficient data, the rate may be established by the use of other information or methods that the commissioner determines fairly establish the standard prevailing rate of wages.

(7) (a) The commissioner shall establish by rule the methodology for determining the standard prevailing rate of wages. The rules must include an alternate methodology to determine the standard prevailing rate of wages whenever insufficient data is generated by the survey of contractors in the applicable district. The rules must identify the amount of data that constitutes insufficient data.

(b) The commissioner shall use an alternate methodology provided by rule to determine the standard prevailing rate of wages whenever insufficient data exists.

(c) The alternative method of determining the prevailing rate of wages must provide for review and the incorporation of data from work of a similar character, which must be based on a survey that is conducted as closely as possible to the original district.

(8) Whenever work of a similar character is not being performed in the district, the standard prevailing rate of wages, including fringe benefits and the rate of travel allowance, must be those rates established by collective bargaining agreements in effect in the applicable district for each craft, classification, or type of skilled worker needed to complete the contract.

Section 2. Standard prevailing rate of wages for heavy construction services and for highway construction services — definition. (1) The department shall establish from time to time the standard prevailing rate of wages for heavy construction services and for highway construction services.

(2) In establishing the standard prevailing rate of wages for heavy construction services and for highway construction services, the department may either:

(a) conduct a survey of construction contractors registered under Title 39, chapter 9, who perform heavy construction services or highway construction services; or

(b) adopt by reference through rulemaking the rates established by the U.S. department of labor under the federal Davis-Bacon Act, 29 CFR 1 et seq., for projects in Montana.

(3) For the purposes of this section, the term "standard prevailing rate of wages for heavy construction services and for highway construction services" means wage rates, including fringe benefits plus zone pay and travel allowances that are determined and established statewide for heavy construction projects and highway construction projects. The department may define by rule the terms heavy construction projects and highway construction projects. The definitions of heavy construction projects and highway construction projects must include but are not limited to projects the same as or similar to the construction, alteration, or repair of roads, streets, highways, alleys, runways, airport runways and ramps, dams, powerhouses, canals, channels, pipelines,

parking areas, utility rights-of-way, staging yards located on or off the right-of-way, or new or reopened pits that produce aggregate, asphalt, concrete, or backfill when the pit does not normally sell to the general public.

Section 3. Standard prevailing rate of wages for nonconstruction services — survey. (1) The department shall conduct an annual survey to calculate the standard prevailing rate of wages for nonconstruction services using the process described in this section.

(2) The standard prevailing wage rates adopted under subsection (1) must be set for the districts established under 18-2-411.

(3) (a) The department shall survey those employers that the department determines provide nonconstruction services in Montana in fulfillment of public works contracts.

(b) The department may survey employers that request to be included in the survey related to the nonconstruction services standard prevailing rate of wages or employers whose names and addresses are supplied by a political subdivision of the state as employers who have submitted bona fide bids or responses to requests for proposals for public works contracts for nonconstruction services.

(4) If the department does not survey an employer who is required to be surveyed under subsection (3)(a) or eligible to be surveyed under subsection (3)(b), the resulting survey and the ratesetting process remain valid.

(5) The survey must include:

(a) those wages, including fringe benefits and travel allowances if applicable, that are paid in the applicable district by other employers for work of a similar character performed in that district by each craft, classification, or type of worker needed to complete a contract under this part; and

(b) information pertaining to the number of workers employed in the employer's peak month of employment.

(6) In setting the standard prevailing rate of wages for nonconstruction services from the survey for each craft, classification, or type of work, the department shall use the weighted average wage for each craft, classification, or type of work, except in cases in which the survey shows that at least 50% of the workers are receiving the same wage. If the survey shows that at least 50% of the workers are receiving the same wage, that wage is the standard prevailing rate of wages for that craft, classification, or type of work.

(7) The work performed must be work of a similar character to the work performed in the applicable district unless the survey in the applicable district does not generate sufficient data. If the survey produces insufficient data, the standard prevailing rate of wages may be established by the use of other information or an alternate methodology as provided in subsection (8).

(8) (a) The commissioner shall establish by rule the methodology for determining the standard prevailing rate of wages. The rules must include an alternate methodology to determine the standard prevailing rate of wages whenever insufficient data is generated by the survey of contractors in the applicable district. The rules must identify the amount of data that constitutes insufficient data.

(b) The commissioner shall use an alternate methodology provided by rule to determine the standard prevailing rate of wages whenever insufficient data exists.

(c) The alternative method of determining the prevailing rate of wages must provide for review and the incorporation of data from work of a similar character, which must be based on a survey that is conducted as closely as possible to the original district.

(9) Whenever work of a similar character is not being performed in the district, the standard prevailing rate of wages, including fringe benefits, must be those rates established by collective bargaining agreements in effect in the applicable district for each craft, classification, or type of skilled worker needed to complete the contract.

Section 4. Wages paid to registered apprentices. (1) Only an apprentice whose indenture agreement is registered with the department under Title 39, chapter 6, or recognized by the department as being registered with an appropriate registration agency of another state or the federal government may be paid as provided in subsection (2) when working on a public works contract. An apprentice whose indenture agreement is not registered with or recognized by the department must be paid the full amount of the standard prevailing rate of wages, including any applicable travel allowances.

(2) A recognized, registered apprentice must be paid the percentage of the standard prevailing rate of wages provided for in the apprenticeship standards applicable to that apprentice. The percentage amount applies to wage rates only and not to fringe benefits. The full amount of any applicable fringe benefits must be paid to the apprentice while the apprentice is working on the public works contract.

Section 5. Wage rate adjustments for multiyear contracts. (1) Any public works contract that by the terms of the original contract calls for more than 30 months to fully perform must include a provision to adjust, as provided in subsection (2), the standard prevailing rate of wages to be paid to the workers performing the contract.

(2) The standard prevailing rate of wages paid to workers under a contract subject to this section must be adjusted 12 months after the date of the award of the public works contract. The amount of the adjustment must be a 3% increase. The adjustment must be made and applied every 12 months for the term of the contract.

(3) Any increase in the standard rate of prevailing wages for workers under this section is the sole responsibility of the contractor and any subcontractors and not the contracting agency.

Section 6. Section 15-6-157, MCA, is amended to read:

"15-6-157. Class fourteen property — description — taxable percentage. (1) Class fourteen property includes:

(a) wind generation facilities of a centrally assessed electric power company;

(b) wind generation facilities owned or operated by an exempt wholesale generator or an entity certified as an exempt wholesale generator pursuant to section 32 of the Public Utility Holding Company Act of 1935, 15 U.S.C. 79z-5a;

(c) noncentrally assessed wind generation facilities owned or operated by any electrical energy producer;

(d) wind generation facilities owned or operated by cooperative rural electric associations described under 15-6-137;

(e) all property of a biodiesel production facility, as defined in 15-24-3102, that has commenced construction after June 1, 2007;

(f) all property of a biogas production facility, as defined in 15-24-3102, that has commenced construction after June 1, 2007;

(g) all property of a biomass gasification facility, as defined in 15-24-3102;

(h) all property of a coal gasification facility, as defined in 15-24-3102, except for property in subsection (1)(k) of this section, that sequesters carbon dioxide;

(i) all property of an ethanol production facility, as defined in 15-24-3102, that has commenced construction after June 1, 2007;

(j) all property of a geothermal facility, as defined in 15-24-3102;

(k) all property of an integrated gasification combined cycle facility, as defined in 15-24-3102, that sequesters carbon dioxide, as required by 15-24-3111(4)(c);

(l) all property or a portion of the property of a renewable energy manufacturing facility, as defined in 15-24-3102, that has commenced construction after June 1, 2007;

(m) all property of a natural gas combined cycle facility;

(n) equipment that is used to capture and to prepare for transport carbon dioxide that will be sequestered or injected for the purpose of enhancing the recovery of oil and gas, other than that equipment at coal combustion plants of the types that are generally in commercial use as of December 31, 2007, that commence construction after December 31, 2007;

(o) high-voltage direct-current transmission lines and associated equipment and structures, including converter stations and interconnections, other than property classified under 15-6-159, that:

(i) originate in Montana with a converter station located in Montana east of the continental divide and that are constructed after July 1, 2007;

(ii) are certified under the Montana Major Facility Siting Act; and

(iii) provide access to energy markets for Montana electrical generation facilities listed in this section that commenced construction after June 1, 2007;

(p) all property of electric transmission lines, including substations, that originate at facilities specified in this subsection (1), with at least 90% of electricity carried by the line originating at facilities specified in this subsection (1) and terminating at an existing transmission line or substation that has commenced construction after June 1, 2007;

(q) the qualified portion of an alternating current transmission line and its associated equipment and structures, including interconnections, that has commenced construction after June 1, 2007.

(2) (a) The qualified portion of an alternating current transmission line in subsection (1)(q) is that percentage, as determined by the department of environmental quality, of rated transmission capacity of the line contracted for on a firm basis by buyers or sellers of electricity generated by facilities specified in subsection (1) that are located in Montana.

(b) The department of revenue shall classify the total value of an alternating current transmission line in accordance with the determination made by the department of environmental quality pursuant to subsection (2)(a).

(c) The owner of property described under this subsection (2) shall disclose the location of the generation facilities specified in subsection (1) and information sufficient to demonstrate that there is a firm contract for transmission capacity available throughout the year. For purposes of the initial

qualification, the owner is not required to disclose financial terms and conditions of contracts beyond that needed for classification.

(3) Class fourteen property does not include facilities:

(a) at which the standard prevailing rate of wages for heavy construction, as provided in ~~18-2-401(13)(a)~~ *[section 2]*, was not paid during the construction phase; or

(b) that are exempt under 15-6-225.

(4) For the purposes of this section, "wind generation facilities" means any combination of a physically connected wind turbine or turbines, associated prime movers, and other associated property, including appurtenant land and improvements and personal property, that are normally operated together to produce electric power from wind.

(5) (a) The department of environmental quality shall determine whether to certify that a transmission line meets the criteria of subsection (1)(o), (1)(p), or (1)(q), as applicable, based on an application provided for in 15-24-3112. The department of environmental quality shall review the certification 10 years after the line is operational, and if the property no longer meets the requirements of subsection (1)(o), (1)(p), or (1)(q), the certification must be revoked.

(b) If the department of revenue finds that a certification previously granted was based on an application that the applicant knew was false or fraudulent, the property must be placed in class nine under 15-6-141. If the application was fraudulent, the applicant may be liable for additional taxes, penalty, and interest from the time that the certification was in effect.

(6) Class fourteen property is taxed at 3% of its market value."

Section 7. Section 15-6-158, MCA, is amended to read:

"15-6-158. Class fifteen property — description — taxable percentage. (1) Class fifteen property includes:

(a) carbon dioxide pipelines certified by the department of environmental quality under 15-24-3112 for the transportation of carbon dioxide for the purposes of sequestration or for use in closed-loop enhanced oil recovery operations;

(b) qualified liquid pipelines certified by the department of environmental quality under 15-24-3112;

(c) carbon sequestration equipment;

(d) equipment used in closed-loop enhanced oil recovery operations; and

(e) all property of pipelines, including pumping and compression equipment, carrying products other than carbon dioxide, that originate at facilities specified in 15-6-157(1), with at least 90% of the product carried by the pipeline originating at facilities specified in 15-6-157(1) and terminating at an existing pipeline or facility.

(2) For the purposes of this section, the following definitions apply:

(a) "Carbon dioxide pipeline" means a pipeline that transports carbon dioxide from a plant or facility that produces or captures carbon dioxide to a carbon sequestration point, including a closed-loop enhanced oil recovery operation.

(b) "Carbon sequestration" means the long-term storage of carbon dioxide from a carbon dioxide pipeline in geologic formations, including but not limited

to deep saline formations, basalt or oil shale formations, depleted oil and gas reservoirs, unminable coal beds, and closed-loop enhanced oil recovery operations.

(c) "Carbon sequestration equipment" means the equipment used for carbon sequestration, including equipment used to inject carbon dioxide at the carbon sequestration point and equipment used to retain carbon dioxide in the sequestration location.

(d) "Carbon sequestration point" means the location where the carbon dioxide is to be confined for sequestration.

(e) "Closed-loop enhanced oil recovery operation" means all oil production equipment, as described in 15-6-138(1)(c), owned by an entity that owns or operates an operation that, after construction, installation, and testing has been completed and the full enhanced oil recovery process has been commenced, injects carbon dioxide to increase the amount of crude oil that can be recovered from a well and retains as much of the injected carbon dioxide as practicable, but not less than 85% of the carbon dioxide injected each year absent catastrophic or unforeseen occurrences.

(f) "Liquid pipeline" means a pipeline that is dedicated to using 90% of its pipeline capacity for transporting fuel or methane gas from a coal gasification facility, biodiesel production facility, biogas production facility, or ethanol production facility.

(g) "Plant or facility that produces or captures carbon dioxide" means a facility that produces a flow of carbon dioxide that can be sequestered or used in a closed-loop enhanced oil recovery operation. This does not include wells from which the primary product is carbon dioxide.

(3) Class fifteen property does not include a carbon dioxide pipeline, liquid pipeline, or closed-loop enhanced oil recovery operation for which, during construction, the standard prevailing wages for heavy construction, as provided in ~~18-2-401(13)(a)~~ *[section 2]*, were not paid during the construction phase.

(4) Class fifteen property is taxed at 3% of its market value."

Section 8. Section 15-6-159, MCA, is amended to read:

"15-6-159. Class sixteen property — description — taxable percentage. (1) Class sixteen property includes high-voltage direct-current converter stations that are constructed in a location and manner so that the converter station can direct power to two different regional power grids.

(2) Class sixteen property does not include property described in subsection (1) for which the standard prevailing rate of wages for heavy construction, as provided in ~~18-2-401(13)(a)~~ *[section 2]*, was not paid during the construction phase.

(3) (a) The department shall determine whether to certify that the property meets the criteria of subsection (1).

(b) If the department finds that a certification previously granted was based on an application that the applicant knew was false or fraudulent, the property must be placed in class nine under 15-6-141. If the application was fraudulent, the applicant may be liable for additional taxes, penalty, and interest from the time that the certification was in effect.

(4) Class sixteen property is taxed at 2.25% of its market value."

Section 9. Section 15-24-3111, MCA, is amended to read:

"15-24-3111. Energy production or development — tax abatement — eligibility. (1) A facility listed in subsection (3), clean advanced coal research and development equipment, and renewable energy research and development equipment may qualify for an abatement of property tax liability pursuant to this part.

(2) (a) If the abatement is granted for a facility listed in subsection (3), the qualifying facility must be assessed at 50% of its taxable value for the qualifying period.

(b) If the abatement is granted for clean advanced coal research and development equipment or renewable energy research and development equipment, the qualifying equipment, up to the first $1 million of the value of equipment at a facility, must be assessed at 50% of its taxable value for the qualifying period. There is no abatement for any portion of the value of equipment at a facility in excess of $1 million.

(c) The abatement applies to all mills levied against the qualifying facility or equipment.

(3) Subject to subsections (4) and (5), the following facilities or property may qualify for the abatement allowed under this part:

(a) biodiesel production facilities;

(b) biogas production facilities;

(c) biomass gasification facilities;

(d) coal gasification facilities for which carbon dioxide from the coal gasification process is sequestered;

(e) ethanol production facilities;

(f) geothermal facilities;

(g) renewable energy manufacturing facilities;

(h) clean advanced coal research and development equipment and renewable energy research and development equipment;

(i) a natural gas combined cycle facility that offsets a portion of the carbon dioxide produced through carbon credit offsets;

(j) transmission lines and associated equipment and structures classified in 15-6-157;

(k) converter stations classified under 15-6-159;

(l) carbon sequestration equipment as defined in 15-6-158; and

(m) pipelines classified under 15-6-158.

(4) (a) In order to qualify for the abatement under this part, a facility listed in subsection (3) must meet the following requirements:

(i) commencement of construction of the facility must occur after June 1, 2007; and

(ii) the standard prevailing rate of wages for heavy construction, as provided in ~~18-2-401(13)(a)~~ *[section 2]*, must be paid during the construction phase of the facility.

(b) In order to qualify for the abatement under this part, clean advanced coal research and development equipment and renewable energy research and development equipment must be placed into service after June 30, 2007.

(c) For the facility to qualify under subsection (3)(d), the carbon dioxide produced from the gasification process must be sequestered at a rate that is practically obtainable but may not be less than 65%.

(d) Integrated gasification combined cycle facilities for which a permit under Title 75, chapter 2, is applied for after December 31, 2014, do not qualify under subsection (3)(d).

(e) To qualify under subsection (3)(i), the facility shall offset carbon dioxide emissions by the percentage determined in 15-24-3116.

(5) To qualify for an abatement, the facility or clean advanced coal research and development equipment and renewable energy research and development equipment must be certified as provided in 15-24-3112.

(6) Upon termination of the qualifying period, the abatement ceases and the property for which the abatement had been granted must be assessed at 100% of its taxable value.

(7) For the purposes of this section, "qualifying period" means the construction period and the first 15 years after the facility commences operation or the clean advanced coal research and development equipment or renewable energy research and development equipment is purchased. The total time of the qualifying period may not exceed 19 years."

Section 10. Section 15-70-522, MCA, is amended to read:

"15-70-522. Tax incentive for production of ethanol — rules. (1) (a) If the ethanol was produced in Montana from Montana agricultural products, including Montana wood or wood products, or if the ethanol was produced from non-Montana agricultural products when Montana products are not available, there is a tax incentive payable to ethanol distributors for distilling ethanol that:

(i) is to be blended with gasoline for sale as ethanol-blended gasoline in Montana;

(ii) was exported from Montana to be blended with gasoline for sale as ethanol-blended gasoline; or

(iii) is to be used in the production of ethyl butyl ether for use in reformulated gasoline.

(b) Payment must be made by the department out of the amount collected under 15-70-204.

(2) Except as provided in subsections (3) and (4), the tax incentive on each gallon of ethanol distilled in accordance with subsection (1) is 20 cents a gallon for each gallon that is 100% produced from Montana products, with the amount of the tax incentive for each gallon reduced proportionately, based upon the amount of agricultural or wood products not produced in Montana that is used in the production of the ethanol. The tax incentive is available to a facility for the first 6 years from the date that the facility begins production. The facility shall file a business plan with the department at least 2 years before the estimated beginning date of production. After the initial business plan is filed, the facility shall provide the department with quarterly updates regarding any changes to the business plan.

(3) Regardless of the ethanol tax incentive provided in subsection (2):

(a) the total payments made for the incentive under this part may not exceed $6 million in any consecutive 12-month period;

(b) a plant or facility is not eligible to receive the tax incentive unless the facility paid the standard prevailing rate of wages for heavy construction, as provided in ~~18-2-401(13)(a)~~ *[section 2]*, during the construction phase; and

(c) an ethanol distributor is not eligible to receive the tax incentive unless at least:

(i) 20% Montana product is used to produce ethanol at the facility in the first year of production;

(ii) 25% Montana product is used to produce ethanol at the facility in the second year of production;

(iii) 35% Montana product is used to produce ethanol at the facility in the third year of production;

(iv) 45% Montana product is used to produce ethanol at the facility in the fourth year of production;

(v) 55% Montana product is used to produce ethanol at the facility in the fifth year of production; and

(vi) 65% Montana product is used to produce ethanol at the facility in the sixth year of production.

(4) (a) An ethanol distributor may not receive tax incentive payments under subsection (2) that exceed $2 million in any consecutive 12-month period. Subject to subsections (5) and (6), an ethanol distributor may receive tax incentive payments commencing the first quarter after a facility begins production. The distributor shall report its production to the department pursuant to 15-70-205.

(b) The distributor's report must include:

(i) the total number of gallons produced for the month;

(ii) the total amount of products purchased for the production of ethanol;

(iii) the percentage of the total amount of products purchased that are Montana products; and

(iv) other information that the department determines is necessary.

(5) (a) A plant shall apply for the incentive payment by submitting an application to the department when the plant has proof of commitment from lenders to finance the plant. Subject to subsection (5)(b), the department shall respond to the applicant with approval of the application within 45 days of receipt of the application, after confirming the lending commitment. Upon approval of the application, the department shall enter into a contract with the plant that ensures the state's commitment to pay incentive payments to qualifying ethanol plants.

(b) If the department is not able to confirm a lending commitment, the department shall deny the application.

(6) After the department has verified production, the application provisions of subsection (5) are met, and the plant owner presents proof of financing, the department shall begin payments of the ethanol tax incentives based on actual production according to the terms of subsections (2) and (4).

(7) The department shall adopt rules necessary to carry out the provisions of this section. The department shall coordinate and request information and input from the ethanol production industry as a part of the rulemaking process and shall follow the procedures provided in Title 2, chapter 4."

Section 11. Section 18-2-401, MCA, is amended to read:

"18-2-401. Definitions. Unless the context requires otherwise, in this part, the following definitions apply:

(1) *(a)* ~~A "bona~~ *"Bona* fide *Montana* resident ~~of Montana" is a person~~ *means an individual* who, at the time of employment and immediately prior to the time of employment, has lived in this state in a manner and for a time that is sufficient to clearly justify the conclusion that the ~~person's~~ *individual's* past habitation in this state has been coupled with an intention to make ~~it the person's~~ *this state the individual's* home. ~~Persons~~

(b) Individuals who come to Montana solely in ~~pursuance~~ *pursuit* of ~~any~~ *a* contract or *an* agreement to perform labor may not be considered to be bona fide *Montana* residents ~~of Montana~~ within the meaning and for the purpose of this part.

(2) "Commissioner" means the commissioner of labor and industry provided for in 2-15-1701.

(3) (a) "Construction services" means work performed by an individual in *building* construction, heavy construction, highway construction, and remodeling work.

(b) The term does not include:

(i) engineering, superintendence, management, office, or clerical work on a public works contract; or

(ii) consulting contracts, contracts with commercial suppliers for goods and supplies, or contracts with professionals licensed under state law.

(4) "Contractor" means any *individual,* general contractor, subcontractor, firm, association, partnership, corporation, limited liability partnership, or limited liability company engaged in construction services.

(5) "Department" means the department of labor and industry provided for in 2-15-1701.

(6) "District" means a prevailing wage rate district established as provided in 18-2-411.

(7) "Employer" means any *individual,* firm, association, partnership, corporation, limited liability partnership, or limited liability company engaged in nonconstruction services.

~~(8) "Heavy and highway construction wage rates" means wage rates, including fringe benefits for health and welfare and pension contributions, that meet the requirements of the Employee Retirement Income Security Act of 1974 and other bona fide programs approved by the United States department of labor and zone pay and travel allowance that are determined and established statewide for heavy and highway construction projects, such as alteration or repair of roads, streets, highways, alleys, runways, trails, parking areas, utility rights-of-way, staging yards located on or off the right-of-way, or new or reopened pits that produce aggregate, asphalt, concrete, or backfill when the pit does not normally sell to the general public.~~

(8) "Fringe benefits" means health, welfare, and pension contributions that meet the requirements of the Employee Retirement Income Security Act of 1974, 29 U.S.C. 1001, et seq., and other bona fide programs approved by the U.S. department of labor.

(9) "Nonconstruction services" means work performed by an individual, not including management, office, or clerical work, for:

(a) the maintenance of publicly owned buildings and facilities, including public highways, roads, streets, and alleys;

(b) custodial or security services for publicly owned buildings and facilities;

(c) grounds maintenance for publicly owned property;

(d) the operation of public drinking water supply, waste collection, and waste disposal systems;

(e) law enforcement, including janitors and prison guards;

(f) fire protection;

(g) public or school transportation driving;

(h) nursing, nurse's aid services, and medical laboratory technician services;

(i) material and mail handling;

(j) food service and cooking;

(k) motor vehicle and construction equipment repair and servicing; and

(l) appliance and office machine repair and servicing.

(10) "Project location" means the construction site where a public works project involving construction services is being built, installed, or otherwise improved or reclaimed, as specified on the project plans and specifications.

(11) (a) "Public works contract" means a contract for construction services let by the state, county, municipality, school district, or political subdivision or for nonconstruction services let by the state, county, municipality, or political subdivision in which the total cost of the contract is in excess of $25,000. The nonconstruction services classification does not apply to any school district that at any time prior to April 27, 1999, contracted with a private contractor for the provision of nonconstruction services on behalf of the district.

(b) The term does not include contracts entered into by the department of public health and human services for the provision of human services.

(12) "Special circumstances" means all work performed at a facility that is built or developed for a specific Montana public works project and that is located in a prevailing wage district that contains the project location or that is located in a contiguous prevailing wage district.

(13) ~~(a)~~ "Standard prevailing rate of wages" or "standard prevailing wage" means *the rates established as provided in*:

(a) [section 1] for building construction services;

(b) [section 2] for heavy construction services and for highway construction services; and

(c) [section 3] for nonconstruction services.

~~(i) the heavy and highway construction wage rates applicable to heavy and highway construction projects; or~~

~~(ii) those wages, other than heavy and highway construction wages, including fringe benefits for health and welfare and pension contributions, that meet the requirements of the Employee Retirement Security Act of 1974 and other bona fide programs approved by the United States department of labor and travel allowance that are paid in the district by other contractors for work of a similar character performed in that district by each craft, classification, or type of worker needed to complete a contract under this part. In each district, the standard prevailing rate of wages must be computed by the department based on work performed by electrical contractors who are licensed under Title~~

37, chapter 68, master plumbers who are licensed under Title 37, chapter 69, part 3, and Montana contractors who are registered under Title 39, chapter 9, and whose work is performed according to commercial building codes. The contractor survey must include information pertaining to the number of skilled craftspersons employed in the employer's peak month of employment and the wages and benefits paid for each craft. In setting the prevailing wages from the survey for each craft, the department shall use the weighted average wage for each craft, except in those cases in which the survey shows that 50% of the craftspersons are receiving the same wage. When the survey shows that 50% of the craftspersons are receiving the same wage, that wage is the prevailing wage for that craft. The work performed must be work of a similar character to the work performed in the district unless the annual survey of construction contractors and the biennial survey of nonconstruction service employers in the district does not generate sufficient data. If the survey produces insufficient data, the rate may be established by the use of other information or methods that the commissioner determines fairly establish the standard prevailing rate of wages. The commissioner shall establish by rule the method or methods by which the standard prevailing rate of wages is determined. The rules must establish a process for determining if there is insufficient data generated by the survey of employers in the district that requires the use of other methods of determining the standard prevailing rate of wages. The rules must identify the amount of data that constitutes insufficient data and require the commissioner of labor to use other methods of determining the standard prevailing rate of wages when insufficient data exists. The alternative methods of determining the prevailing rate of wages must provide for review and the incorporation of data from work of a similar character that is conducted as near as possible to the original district.

~~(b) When work of a similar character is not being performed in the district, the standard prevailing rate of wages, including fringe benefits for health and welfare and pension contributions, that meets the requirements of the Employee Retirement Security Act of 1974 and other bona fide programs approved by the United States department of labor and the rate of travel allowance must be those rates established by collective bargaining agreements in effect in the district for each craft, classification, or type of worker needed to complete the contract.~~

(14) "Work of a similar character" means work on private commercial projects as well as work on public projects."

Section 12. Section 18-2-402, MCA, is amended to read:

"18-2-402. Standard prevailing rate of wages. (1) The ~~Montana~~ commissioner ~~of labor~~ may determine the standard prevailing rate of wages applicable to public works contracts under this part. The commissioner shall ~~undertake to~~ keep and maintain copies of collective bargaining agreements and other information on which the rates are based.

(2) The provisions of this part do not apply in those instances ~~where~~ *in which* the standard prevailing rate of wages is determined ~~pursuant to~~ *by* federal law.

(3) ~~In no instances where~~ *Whenever* this part is applicable, ~~shall~~ the standard prevailing rate of ~~wage be determined to~~ *wages may* be *equal to but not* greater than the *highest* applicable rate of ~~wage~~ *wages* in the area for the particular work in question as negotiated under existing and current collective bargaining agreements."

Section 13. Section 18-2-403, MCA, is amended to read:

"18-2-403. Preference of Montana labor in public works — wages — tax-exempt project — federal exception. (1) In every public works contract, there must be inserted in the bid specification and the public works contract a provision requiring the contractor to give preference to the employment of bona fide *Montana* residents ~~of Montana~~ in the performance of the work.

(2) All public works contracts for construction services under subsection (1), except those for heavy and highway construction, that are conducted at the project location or under special circumstances must contain a provision requiring the contractor to pay:

(a) the travel allowance that is in effect and applicable to the district in which the work is being performed; and

(b) the standard prevailing rate of wages, including fringe benefits ~~for health and welfare and pension contributions~~, that:

~~(i) meets the requirements of the Employee Retirement Income Security Act of 1974 and other bona fide programs approved by the United States department of labor; and~~

~~(ii)~~ is in effect and applicable to the district in which the work is being performed.

(3) In every public works contract for heavy and highway construction, there must be inserted a provision to require the contractor to pay the ~~heavy and highway construction~~ *standard prevailing* wage rates established statewide for heavy and highway construction services conducted at the project location or under special circumstances.

(4) Except as provided in subsection (5), all public works contracts for nonconstruction services under subsection (1) must contain a provision requiring the contractor to pay:

(a) the travel allowance that is in effect and applicable to the district in which the work is being performed; and

(b) the standard prevailing rate of wages, including fringe benefits ~~for health and welfare and pension contributions~~, that:

~~(i) meets the requirements of the Employee Retirement Income Security Act of 1974 and other bona fide programs approved by the United States department of labor; and~~

~~(ii)~~ is in effect and applicable to the district in which the work is being performed.

(5) An employer who, as a nonprofit organization providing individuals with vocational rehabilitation, performs a public works contract for nonconstruction services and who employs an individual whose earning capacity is impaired by a mental, emotional, or physical disability may pay the individual wages that are less than the standard prevailing wage if the employer complies with the provisions of section 214(c) of the Fair Labor Standards Act of 1938, 29 U.S.C. 214 and 29 CFR, part 525, and the wages paid are equal to or above the minimum wage required in ~~39-3-404~~ *39-3-409*.

(6) Transportation of goods, supplies, materials, and manufactured or fabricated items to or from the project location is not subject to payment of the standard prevailing rate of wages.

(7) A contract, other than a public works contract, let for a project costing more than $25,000 and financed from the proceeds of bonds issued under Title 17, chapter 5, part 15, or Title 90, chapter 5 or 7, must contain a provision

requiring the contractor to pay the standard prevailing wage rate in effect and applicable to the district in which the work is being performed unless the contractor performing the work has entered into a collective bargaining agreement covering the work to be performed.

(8) A public works contract may not be let to any person, firm, association, or corporation refusing to execute an agreement with the provisions described in subsections (1) through (7) in it, provided that in public works contracts involving the expenditure of federal-aid funds, this part may not be enforced in a manner as to conflict with or be contrary to the federal statutes prescribing a labor preference to honorably discharged veterans of the armed forces and prohibiting as unlawful any other preference or discrimination among citizens of the United States.

(9) Failure to include the provisions required by 18-2-422 in a public works contract relieves the contractor from the contractor's obligation to pay the standard prevailing wage rate and places the obligation on the public contracting agency."

Section 14. Section 18-2-407, MCA, is amended to read:

"18-2-407. Forfeiture for failure to pay standard prevailing ~~wage~~ *rate of wages.* (1) Except as provided in 18-2-403, a contractor, subcontractor, or employer who pays workers or employees at less than the standard prevailing ~~wage~~ *rate of wages* as established under the public works contract shall forfeit to the department a penalty at a rate of up to 20% of the delinquent wages plus fringe benefits, attorney fees, audit fees, and court costs. Money collected by the department under this section must be deposited in the general fund. A contractor, subcontractor, or employer shall also forfeit to the employee the amount of wages owed plus $25 a day for each day that the employee was underpaid.

(2) Whenever it appears to the contracting agency or to the ~~Montana~~ commissioner ~~of labor and industry~~ that there is insufficient money due to the contractor or the employer under the terms of the contract to cover penalties, the ~~Montana~~ commissioner ~~of labor and industry~~ may, within 90 days after the filing of notice of completion of the project and its acceptance by the contracting agency, maintain an action in district court to recover all penalties and forfeitures due. This part does not prevent the individual worker who has been underpaid or the commissioner ~~of labor and industry~~ on behalf of all the underpaid workers from maintaining an action for recovery of the wages due under the contract as provided in Title 39, chapter 3, part 2~~, except that appeal of the hearings officer's decision is made directly to district court rather than to the board of personnel appeals~~."

Section 15. Section 18-2-411, MCA, is amended to read:

"18-2-411. Creation of prevailing wage rate districts. (1) Without taking into consideration heavy *construction services* and highway construction *services* wage rates, the commissioner shall divide the state into ~~at least~~ *not more than* 10 prevailing wage rate districts *for building construction services and nonconstruction services*.

(2) In initially determining the districts, the commissioner ~~must~~ *shall*:

(a) follow the rulemaking procedures in the Montana Administrative Procedure Act; and

(b) publish the reasons supporting the creation of each district.

(3) A district boundary may not be changed except for good cause and in accordance with the rulemaking procedures in the Montana Administrative Procedure Act.

(4) The presence of collective bargaining agreements in a particular area may not be the sole basis for the creation of boundaries of a district, nor may the absence of collective bargaining agreements in a particular area be the sole basis for changing the boundaries of a district.

(5) For each prevailing wage rate district established under this section, the commissioner shall determine the standard prevailing rate of wages to be paid employees, as provided in ~~18-2-401 and 18-2-402~~ *this part*. The standard prevailing rate of wages for construction services, as determined by the commissioner in this subsection, must be used for calculating an apprentice's wage, as provided in 39-6-108."

Section 16. Section 18-2-412, MCA, is amended to read:

"18-2-412. Method for payment of standard prevailing wage. (1) To fulfill the obligation to pay the standard prevailing rate of wages under 18-2-403, a contractor or subcontractor may:

(a) pay the amount of fringe benefits and the basic hourly rate of pay that is part of the standard prevailing rate of wages directly to the worker or employee in cash;

(b) make an irrevocable contribution to a trustee or a third person pursuant to a fringe benefit fund, plan, or program that meets the requirements of the Employee Retirement Income Security Act of 1974 or that is a bona fide program approved by the ~~United States~~ *U.S.* department of labor; or

(c) make payments using any combination of methods set forth in subsections (1)(a) and (1)(b) so that the aggregate of payments and contributions is not less than the standard prevailing rate of wages, including fringe benefits ~~for health and welfare and pension contributions that meet the requirements of the Employee Retirement Income Security Act of 1974,~~ *and* travel~~, or other bona fide programs approved by the United States department of labor, that is~~ *allowances,* applicable to the district for the particular type of work being performed.

(2) The fringe benefit fund, plan, or program described in subsection (1)(b) must provide benefits to workers or employees for health care, pensions on retirement or death, life insurance, disability and sickness insurance, or bona fide programs that meet the requirements of the Employee Retirement Income Security Act of 1974 or that are approved by the ~~United States~~ *U.S.* department of labor.

(3) A private contractor or subcontractor shall file a copy of the fringe benefit fund, plan, or program described in subsection (2) with the department."

Section 17. Section 69-3-2005, MCA, is amended to read:

"69-3-2005. Procurement — cost recovery — reporting. (1) In meeting the requirements of this part, a public utility shall:

(a) conduct renewable energy solicitations under which the public utility offers to purchase renewable energy credits, either with or without the associated electricity, under contracts of at least 10 years in duration; and

(b) consider the importance of geographically diverse rural economic development when procuring renewable energy credits.

(2) A public utility that intends to enter into contracts of less than 10 years in duration shall demonstrate to the commission that these contracts will provide a lower long-term cost of meeting the standard established in 69-3-2004.

(3) (a) Contracts signed for projects located in Montana must require all contractors to give preference to the employment of bona fide Montana residents, as defined in 18-2-401, in the performance of the work on the projects if the Montana residents have substantially equal qualifications to those of nonresidents.

(b) Contracts signed for projects located in Montana must require all contractors to pay the standard prevailing rate of wages for heavy construction, as provided in ~~18-2-401(13)(a)~~ *[section 2]*, during the construction phase of the project.

(4) All contracts signed by a public utility to meet the requirements of this part are eligible for advanced approval under procedures established by the commission. Upon advanced approval by the commission, these contracts are eligible for cost recovery from ratepayers, except that nothing in this part limits the commission's ability to subsequently, in any future cost-recovery proceeding, inquire into the manner in which the public utility has managed the contract and to disallow cost recovery if the contract was not reasonably administered.

(5) A public utility or competitive electricity supplier shall submit renewable energy procurement plans to the commission in accordance with rules adopted by the commission. The plans must be submitted to the commission on or before:

~~(a) January 1, 2007, for the standard required in 69-3-2004(2);~~

~~(b) June 1, 2008, for the standard required in 69-3-2004(3);~~

~~(c)~~*(a)* June 1, 2013, for the standard required in 69-3-2004(4); and

~~(d)~~*(b)* any additional future dates as required by the commission.

(6) A public utility or competitive electricity supplier shall submit annual reports, in a format to be determined by the commission, demonstrating compliance with this part for each compliance year. The reports must be filed by March 1 of the year following the compliance year.

(7) For the purpose of implementing this part, the commission has regulatory authority over competitive electricity suppliers."

Section 18. Codification instruction. [Sections 1 through 5] are intended to be codified as an integral part of Title 18, chapter 2, part 4, and the provisions of Title 18, chapter 2, part 4, apply to [sections 1 through 5].

Section 19. Saving clause. [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

Section 20. Effective date. [This act] is effective July 1, 2009.

Approved April 17, 2009

CHAPTER NO. 278

[SB 367]

AN ACT REVISING REGISTRATION AND VOTING FOR ABSENT UNIFORMED SERVICES AND OVERSEAS ELECTORS; REQUIRING ELECTION ADMINISTRATORS TO ALLOW ABSENT UNIFORMED

Bill Explorer - SB 308: Revise calculation of standard prevailing wage rates

Summary

Sponsoredby: Keane, Jim

(D) SD 38

Progress		
Status	**Date**	**Passed**
Introduced	01/29/09	✓
Passed (S) Committee	01/29/09	✓
Passed Senate	02/09/09	✓
Passed (H) Committee	02/13/09	✓
Passed House	03/23/09	✓
To Governor	04/02/09	✓

Draft #	LC0729
Amendment(s)	No
Chapter #	277
Current Status	Chapter Number Assigned
Co-Sponsor(s)	None

Drafter	Murdo, Pat
Requester	Keane, Jim
Fiscal Note	Yes
Preintroduction Required	No
Category	General Bills
Subject(s)	Public Contracts (see also: Contracts), Rule Making, Employment and Labor (same as: Labor and Employment),
Transmittal Date	02/26/09
Return Date	04/02/09

Sections Affected	Effective Date	Qualifier
All Sections	07/01/2009	

Status

Date	Action	Committee	Yes Votes	No Votes
04/17/09	Chapter Number Assigned			
04/17/09	(S) Signed by Governor			
04/09/09	(S) Transmitted to Governor			
04/07/09	(H) Signed by Speaker			
04/07/09	(S) Signed by President			
04/04/09	(S) Returned from Enrolling			
04/03/09	(C) Printed - New Version Available			
04/03/09	(S) Sent to Enrolling			
04/02/09	(H) Returned to Senate			
04/02/09	(H) 3rd Reading Concurred		80	20
04/02/09	(H) Scheduled for 3rd Reading			

Date	Action	Committee	Yes Votes	No Votes
04/01/09	(C) Printed - New Version Available			
04/01/09	(C) Sponsors Engrossed			
04/01/09	(H) 2nd Reading Concurred		85	13
04/01/09	(H) Scheduled for 2nd Reading			
03/23/09	(H) Committee Report--Bill Concurred	(H) Business and Labor		
03/23/09	(H) Committee Executive Action--Bill Concurred	(H) Business and Labor	18	0
03/13/09	(H) Hearing	(H) Business and Labor		
02/14/09	(H) First Reading			
02/14/09	(H) Referred to Committee	(H) Business and Labor		
02/13/09	(S) Transmitted to House			
02/13/09	(S) 3rd Reading Passed		35	15
02/13/09	(S) Scheduled for 3rd Reading			
02/12/09	(S) 2nd Reading Passed		33	17

Date	Action	Committee	Yes Votes	No Votes
02/12/09	(S) Scheduled for 2nd Reading			
02/11/09	(S) Fiscal Note Printed			
02/11/09	(S) Fiscal Note Signed			
02/11/09	(S) Fiscal Note Received			
02/09/09	(S) Committee Report--Bill Passed	(S) Business, Labor, and Economic Affairs		
02/09/09	(S) Committee Executive Action--Bill Passed	(S) Business, Labor, and Economic Affairs	9	2
02/03/09	(S) Hearing	(S) Business, Labor, and Economic Affairs		
01/29/09	(C) Introduced Bill Text Available Electronically			
01/29/09	(S) First Reading			
01/29/09	(S) Fiscal Note Requested			
01/29/09	(S) Referred to Committee	(S) Business, Labor, and Economic Affairs		
01/29/09	(S) Introduced			
01/27/09	(C) Draft Delivered to Requester			

Date	Action	Committee	Yes Votes	No Votes
01/27/09	(C) Draft Ready for Delivery			
01/23/09	(C) Draft in Assembly/Executive Director Review			
01/23/09	(C) Bill Draft Text Available Electronically			
01/23/09	(C) Draft in Input/Proofing			
01/23/09	(C) Draft to Drafter - Edit Review			
01/22/09	(C) Draft in Edit			
01/21/09	(C) Draft in Legal Review			
01/21/09	(C) Fiscal Note Probable			
01/20/09	(C) Draft to Requester for Review			
01/10/09	(C) Draft Taken Off Hold			
11/08/08	(C) Draft On Hold			
11/07/08	(C) Draft Request Received			

Showing 1 to 49 of 49 entries

Fiscal

Date	Status
02/11/09	(S) Fiscal Note Printed
02/11/09	(S) Fiscal Note Signed
02/11/09	(S) Fiscal Note Received
01/29/09	(S) Fiscal Note Requested
01/21/09	(C) Fiscal Note Probable

Fiscal Documents
SB0308.pdf

Fiscal Rebuttals
No matching results found

Amendments

Amendment	Condensed Version
No Amendments found	

Documents And Links

Previous Versions

SB0308_x.pdf

SB0308_2.pdf

SB0308_1.pdf

Other

None

\

SENATE BILL NO. 308

INTRODUCED BY J. KEANE

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATED TO THE STANDARD PREVAILING RATE OF WAGES FOR PUBLIC WORKS CONTRACTS; PROVIDING FOR WAGE AND BENEFIT SURVEYS AND ALTERNATE METHODOLOGIES; SPECIFYING PAYMENT TERMS FOR APPRENTICES WORKING ON PUBLIC WORKS CONTRACTS; LIMITING TO 10 THE MAXIMUM NUMBER OF PREVAILING WAGE RATE DISTRICTS; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 15-6-157, 15-6-158, 15-6-159, 15-24-3111, 15-70-522, 18-2-401, 18-2-402, 18-2-403, 18-2-407, 18-2-411, 18-2-412, AND 69-3-2005, MCA; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Standard prevailing rate of wages for building construction services.** (1) The department shall conduct an annual survey to calculate the standard prevailing rate of wages for building construction services using the process described in this section.

(2) The standard prevailing wage rates adopted under subsection (1) must be set for the districts established pursuant to 18-2-411.

(3) The department shall survey:

(a) electrical contractors who are licensed under Title 37, chapter 68, who perform commercial work;

(b) plumbers who are licensed under Title 37, chapter 69, whose work is performed according to commercial building codes; and

(c) construction contractors registered under Title 39, chapter 9, whose work is performed according to commercial building codes.

(4) The surveys required under subsection (3) must include those wages, including fringe benefits plus travel allowances if applicable, that are paid in the applicable district by other contractors for work of a similar character performed in that district by each craft, classification, or type of worker needed to complete a contract under this part.

(5) The contractor survey must include information pertaining to the number of skilled workers employed in the contractor's peak month of employment and the wages and benefits paid for each craft, classification, or type of work. In setting the prevailing wages from the survey for each craft, classification, or type of work, the

department shall use a weighted average wage for each craft, classification, or type of work, except in those cases in which the survey shows that at least 50% of the skilled workers are receiving the same wage. If the survey shows that at least 50% of the skilled workers are receiving the same wage, that wage is the prevailing wage for that craft, classification, or type of work.

(6) The work performed must be work of a similar character to the work performed in the applicable district unless the survey in the applicable district does not generate sufficient data. If the survey produces insufficient data, the rate may be established by the use of other information or methods that the commissioner determines fairly establish the standard prevailing rate of wages.

(7) (a) The commissioner shall establish by rule the methodology for determining the standard prevailing rate of wages. The rules must include an alternate methodology to determine the standard prevailing rate of wages whenever insufficient data is generated by the survey of contractors in the applicable district. The rules must identify the amount of data that constitutes insufficient data.

(b) The commissioner shall use an alternate methodology provided by rule to determine the standard prevailing rate of wages whenever insufficient data exists.

(c) The alternative method of determining the prevailing rate of wages must provide for review and the incorporation of data from work of a similar character, which must be based on a survey that is conducted as closely as possible to the original district.

(8) Whenever work of a similar character is not being performed in the district, the standard prevailing rate of wages, including fringe benefits and the rate of travel allowance, must be those rates established by collective bargaining agreements in effect in the applicable district for each craft, classification, or type of skilled worker needed to complete the contract.

NEW SECTION. **Section 2. Standard prevailing rate of wages for heavy construction services and for highway construction services -- definition.** (1) The department shall establish from time to time the standard prevailing rate of wages for heavy construction services and for highway construction services.

(2) In establishing the standard prevailing rate of wages for heavy construction services and for highway construction services, the department may either:

(a) conduct a survey of construction contractors registered under Title 39, chapter 9, who perform heavy construction services or highway construction services; or

(b) adopt by reference through rulemaking the rates established by the U.S. department of labor under the federal Davis-Bacon Act, 29 CFR 1 et seq., for projects in Montana.

(3) For the purposes of this section, the term "standard prevailing rate of wages for heavy construction services and for highway construction services" means wage rates, including fringe benefits plus zone pay and travel allowances that are determined and established statewide for heavy construction projects and highway construction projects. The department may define by rule the terms heavy construction projects and highway construction projects. The definitions of heavy construction projects and highway construction projects must include but are not limited to projects the same as or similar to the construction, alteration, or repair of roads, streets, highways, alleys, runways, airport runways and ramps, dams, powerhouses, canals, channels, pipelines, parking areas, utility rights-of-way, staging yards located on or off the right-of-way, or new or reopened pits that produce aggregate, asphalt, concrete, or backfill when the pit does not normally sell to the general public.

NEW SECTION. **Section 3. Standard prevailing rate of wages for nonconstruction services -- survey.** (1) The department shall conduct an annual survey to calculate the standard prevailing rate of wages for nonconstruction services using the process described in this section.

(2) The standard prevailing wage rates adopted under subsection (1) must be set for the districts established under 18-2-411.

(3) (a) The department shall survey those employers that the department determines provide nonconstruction services in Montana in fulfillment of public works contracts.

(b) The department may survey employers that request to be included in the survey related to the nonconstruction services standard prevailing rate of wages or employers whose names and addresses are supplied by a political subdivision of the state as employers who have submitted bona fide bids or responses to requests for proposals for public works contracts for nonconstruction services.

(4) If the department does not survey an employer who is required to be surveyed under subsection (3)(a) or eligible to be surveyed under subsection (3)(b), the resulting survey and the ratesetting process remain valid.

(5) The survey must include:

(a) those wages, including fringe benefits and travel allowances if applicable, that are paid in the applicable district by other employers for work of a similar character performed in that district by each craft, classification, or type of worker needed to complete a contract under this part; and

(b) information pertaining to the number of workers employed in the employer's peak month of employment.

(6) In setting the standard prevailing rate of wages for nonconstruction services from the survey for each

craft, classification, or type of work, the department shall use the weighted average wage for each craft, classification, or type of work, except in cases in which the survey shows that at least 50% of the workers are receiving the same wage. If the survey shows that at least 50% of the workers are receiving the same wage, that wage is the standard prevailing rate of wages for that craft, classification, or type of work.

(7) The work performed must be work of a similar character to the work performed in the applicable district unless the survey in the applicable district does not generate sufficient data. If the survey produces insufficient data, the standard prevailing rate of wages may be established by the use of other information or an alternate methodology as provided in subsection (8).

(8) (a) The commissioner shall establish by rule the methodology for determining the standard prevailing rate of wages. The rules must include an alternate methodology to determine the standard prevailing rate of wages whenever insufficient data is generated by the survey of contractors in the applicable district. The rules must identify the amount of data that constitutes insufficient data.

(b) The commissioner shall use an alternate methodology provided by rule to determine the standard prevailing rate of wages whenever insufficient data exists.

(c) The alternative method of determining the prevailing rate of wages must provide for review and the incorporation of data from work of a similar character, which must be based on a survey that is conducted as closely as possible to the original district.

(9) Whenever work of a similar character is not being performed in the district, the standard prevailing rate of wages, including fringe benefits, must be those rates established by collective bargaining agreements in effect in the applicable district for each craft, classification, or type of skilled worker needed to complete the contract.

NEW SECTION. **Section 4. Wages paid to registered apprentices.** (1) Only an apprentice whose indenture agreement is registered with the department under Title 39, chapter 6, or recognized by the department as being registered with an appropriate registration agency of another state or the federal government may be paid as provided in subsection (2) when working on a public works contract. An apprentice whose indenture agreement is not registered with or recognized by the department must be paid the full amount of the standard prevailing rate of wages, including any applicable travel allowances.

(2) A recognized, registered apprentice must be paid the percentage of the standard prevailing rate of wages provided for in the apprenticeship standards applicable to that apprentice. The percentage amount applies to wage rates only and not to fringe benefits. The full amount of any applicable fringe benefits must be paid to

the apprentice while the apprentice is working on the public works contract.

NEW SECTION. **Section 5. Wage rate adjustments for multiyear contracts.** (1) Any public works contract that by the terms of the original contract calls for more than 30 months to fully perform must include a provision to adjust, as provided in subsection (2), the standard prevailing rate of wages to be paid to the workers performing the contract.

(2) The standard prevailing rate of wages paid to workers under a contract subject to this section must be adjusted 12 months after the date of the award of the public works contract. The amount of the adjustment must be a 3% increase. The adjustment must be made and applied every 12 months for the term of the contract.

(3) Any increase in the standard rate of prevailing wages for workers under this section is the sole responsibility of the contractor and any subcontractors and not the contracting agency.

Section 6. Section 15-6-157, MCA, is amended to read:

"15-6-157. Class fourteen property -- description -- taxable percentage. (1) Class fourteen property includes:

(a) wind generation facilities of a centrally assessed electric power company;

(b) wind generation facilities owned or operated by an exempt wholesale generator or an entity certified as an exempt wholesale generator pursuant to section 32 of the Public Utility Holding Company Act of 1935, 15 U.S.C. 79z-5a;

(c) noncentrally assessed wind generation facilities owned or operated by any electrical energy producer;

(d) wind generation facilities owned or operated by cooperative rural electric associations described under 15-6-137;

(e) all property of a biodiesel production facility, as defined in 15-24-3102, that has commenced construction after June 1, 2007;

(f) all property of a biogas production facility, as defined in 15-24-3102, that has commenced construction after June 1, 2007;

(g) all property of a biomass gasification facility, as defined in 15-24-3102;

(h) all property of a coal gasification facility, as defined in 15-24-3102, except for property in subsection (1)(k) of this section, that sequesters carbon dioxide;

(i) all property of an ethanol production facility, as defined in 15-24-3102, that has commenced construction after June 1, 2007;

(j) all property of a geothermal facility, as defined in 15-24-3102;

(k) all property of an integrated gasification combined cycle facility, as defined in 15-24-3102, that sequesters carbon dioxide, as required by 15-24-3111(4)(c);

(l) all property or a portion of the property of a renewable energy manufacturing facility, as defined in 15-24-3102, that has commenced construction after June 1, 2007;

(m) all property of a natural gas combined cycle facility;

(n) equipment that is used to capture and to prepare for transport carbon dioxide that will be sequestered or injected for the purpose of enhancing the recovery of oil and gas, other than that equipment at coal combustion plants of the types that are generally in commercial use as of December 31, 2007, that commence construction after December 31, 2007;

(o) high-voltage direct-current transmission lines and associated equipment and structures, including converter stations and interconnections, other than property classified under 15-6-159, that:

(i) originate in Montana with a converter station located in Montana east of the continental divide and that are constructed after July 1, 2007;

(ii) are certified under the Montana Major Facility Siting Act; and

(iii) provide access to energy markets for Montana electrical generation facilities listed in this section that commenced construction after June 1, 2007;

(p) all property of electric transmission lines, including substations, that originate at facilities specified in this subsection (1), with at least 90% of electricity carried by the line originating at facilities specified in this subsection (1) and terminating at an existing transmission line or substation that has commenced construction after June 1, 2007;

(q) the qualified portion of an alternating current transmission line and its associated equipment and structures, including interconnections, that has commenced construction after June 1, 2007.

(2) (a) The qualified portion of an alternating current transmission line in subsection (1)(q) is that percentage, as determined by the department of environmental quality, of rated transmission capacity of the line contracted for on a firm basis by buyers or sellers of electricity generated by facilities specified in subsection (1) that are located in Montana.

(b) The department of revenue shall classify the total value of an alternating current transmission line in accordance with the determination made by the department of environmental quality pursuant to subsection (2)(a).

(c) The owner of property described under this subsection (2) shall disclose the location of the generation

facilities specified in subsection (1) and information sufficient to demonstrate that there is a firm contract for transmission capacity available throughout the year. For purposes of the initial qualification, the owner is not required to disclose financial terms and conditions of contracts beyond that needed for classification.

(3) Class fourteen property does not include facilities:

(a) at which the standard prevailing rate of wages for heavy construction, as provided in ~~18-2-401(13)(a)~~ [section 2], was not paid during the construction phase; or

(b) that are exempt under 15-6-225.

(4) For the purposes of this section, "wind generation facilities" means any combination of a physically connected wind turbine or turbines, associated prime movers, and other associated property, including appurtenant land and improvements and personal property, that are normally operated together to produce electric power from wind.

(5) (a) The department of environmental quality shall determine whether to certify that a transmission line meets the criteria of subsection (1)(o), (1)(p), or (1)(q), as applicable, based on an application provided for in 15-24-3112. The department of environmental quality shall review the certification 10 years after the line is operational, and if the property no longer meets the requirements of subsection (1)(o), (1)(p), or (1)(q), the certification must be revoked.

(b) If the department of revenue finds that a certification previously granted was based on an application that the applicant knew was false or fraudulent, the property must be placed in class nine under 15-6-141. If the application was fraudulent, the applicant may be liable for additional taxes, penalty, and interest from the time that the certification was in effect.

(6) Class fourteen property is taxed at 3% of its market value."

Section 7. Section 15-6-158, MCA, is amended to read:

"15-6-158. Class fifteen property -- description -- taxable percentage. (1) Class fifteen property includes:

(a) carbon dioxide pipelines certified by the department of environmental quality under 15-24-3112 for the transportation of carbon dioxide for the purposes of sequestration or for use in closed-loop enhanced oil recovery operations;

(b) qualified liquid pipelines certified by the department of environmental quality under 15-24-3112;

(c) carbon sequestration equipment;

(d) equipment used in closed-loop enhanced oil recovery operations; and

(e) all property of pipelines, including pumping and compression equipment, carrying products other than carbon dioxide, that originate at facilities specified in 15-6-157(1), with at least 90% of the product carried by the pipeline originating at facilities specified in 15-6-157(1) and terminating at an existing pipeline or facility.

(2) For the purposes of this section, the following definitions apply:

(a) "Carbon dioxide pipeline" means a pipeline that transports carbon dioxide from a plant or facility that produces or captures carbon dioxide to a carbon sequestration point, including a closed-loop enhanced oil recovery operation.

(b) "Carbon sequestration" means the long-term storage of carbon dioxide from a carbon dioxide pipeline in geologic formations, including but not limited to deep saline formations, basalt or oil shale formations, depleted oil and gas reservoirs, unminable coal beds, and closed-loop enhanced oil recovery operations.

(c) "Carbon sequestration equipment" means the equipment used for carbon sequestration, including equipment used to inject carbon dioxide at the carbon sequestration point and equipment used to retain carbon dioxide in the sequestration location.

(d) "Carbon sequestration point" means the location where the carbon dioxide is to be confined for sequestration.

(e) "Closed-loop enhanced oil recovery operation" means all oil production equipment, as described in 15-6-138(1)(c), owned by an entity that owns or operates an operation that, after construction, installation, and testing has been completed and the full enhanced oil recovery process has been commenced, injects carbon dioxide to increase the amount of crude oil that can be recovered from a well and retains as much of the injected carbon dioxide as practicable, but not less than 85% of the carbon dioxide injected each year absent catastrophic or unforeseen occurrences.

(f) "Liquid pipeline" means a pipeline that is dedicated to using 90% of its pipeline capacity for transporting fuel or methane gas from a coal gasification facility, biodiesel production facility, biogas production facility, or ethanol production facility.

(g) "Plant or facility that produces or captures carbon dioxide" means a facility that produces a flow of carbon dioxide that can be sequestered or used in a closed-loop enhanced oil recovery operation. This does not include wells from which the primary product is carbon dioxide.

(3) Class fifteen property does not include a carbon dioxide pipeline, liquid pipeline, or closed-loop enhanced oil recovery operation for which, during construction, the standard prevailing wages for heavy construction, as provided in ~~18-2-401(13)(a)~~ [section 2], were not paid during the construction phase.

(4) Class fifteen property is taxed at 3% of its market value."

Section 8. Section 15-6-159, MCA, is amended to read:

"15-6-159. Class sixteen property -- description -- taxable percentage. (1) Class sixteen property includes high-voltage direct-current converter stations that are constructed in a location and manner so that the converter station can direct power to two different regional power grids.

(2) Class sixteen property does not include property described in subsection (1) for which the standard prevailing rate of wages for heavy construction, as provided in ~~18-2-401(13)(a)~~ [section 2], was not paid during the construction phase.

(3) (a) The department shall determine whether to certify that the property meets the criteria of subsection (1).

(b) If the department finds that a certification previously granted was based on an application that the applicant knew was false or fraudulent, the property must be placed in class nine under 15-6-141. If the application was fraudulent, the applicant may be liable for additional taxes, penalty, and interest from the time that the certification was in effect.

(4) Class sixteen property is taxed at 2.25% of its market value."

Section 9. Section 15-24-3111, MCA, is amended to read:

"15-24-3111. Energy production or development -- tax abatement -- eligibility. (1) A facility listed in subsection (3), clean advanced coal research and development equipment, and renewable energy research and development equipment may qualify for an abatement of property tax liability pursuant to this part.

(2) (a) If the abatement is granted for a facility listed in subsection (3), the qualifying facility must be assessed at 50% of its taxable value for the qualifying period.

(b) If the abatement is granted for clean advanced coal research and development equipment or renewable energy research and development equipment, the qualifying equipment, up to the first $1 million of the value of equipment at a facility, must be assessed at 50% of its taxable value for the qualifying period. There is no abatement for any portion of the value of equipment at a facility in excess of $1 million.

(c) The abatement applies to all mills levied against the qualifying facility or equipment.

(3) Subject to subsections (4) and (5), the following facilities or property may qualify for the abatement allowed under this part:

(a) biodiesel production facilities;

(b) biogas production facilities;

(c) biomass gasification facilities;

(d) coal gasification facilities for which carbon dioxide from the coal gasification process is sequestered;

(e) ethanol production facilities;

(f) geothermal facilities;

(g) renewable energy manufacturing facilities;

(h) clean advanced coal research and development equipment and renewable energy research and development equipment;

(i) a natural gas combined cycle facility that offsets a portion of the carbon dioxide produced through carbon credit offsets;

(j) transmission lines and associated equipment and structures classified in 15-6-157;

(k) converter stations classified under 15-6-159;

(l) carbon sequestration equipment as defined in 15-6-158; and

(m) pipelines classified under 15-6-158.

(4) (a) In order to qualify for the abatement under this part, a facility listed in subsection (3) must meet the following requirements:

(i) commencement of construction of the facility must occur after June 1, 2007; and

(ii) the standard prevailing rate of wages for heavy construction, as provided in ~~18-2-401(13)(a)~~ [section 2], must be paid during the construction phase of the facility.

(b) In order to qualify for the abatement under this part, clean advanced coal research and development equipment and renewable energy research and development equipment must be placed into service after June 30, 2007.

(c) For the facility to qualify under subsection (3)(d), the carbon dioxide produced from the gasification process must be sequestered at a rate that is practically obtainable but may not be less than 65%.

(d) Integrated gasification combined cycle facilities for which a permit under Title 75, chapter 2, is applied for after December 31, 2014, do not qualify under subsection (3)(d).

(e) To qualify under subsection (3)(i), the facility shall offset carbon dioxide emissions by the percentage determined in 15-24-3116.

(5) To qualify for an abatement, the facility or clean advanced coal research and development equipment and renewable energy research and development equipment must be certified as provided in 15-24-3112.

(6) Upon termination of the qualifying period, the abatement ceases and the property for which the abatement had been granted must be assessed at 100% of its taxable value.

(7) For the purposes of this section, "qualifying period" means the construction period and the first 15

years after the facility commences operation or the clean advanced coal research and development equipment or renewable energy research and development equipment is purchased. The total time of the qualifying period may not exceed 19 years."

Section 10. Section 15-70-522, MCA, is amended to read:

"15-70-522. Tax incentive for production of ethanol -- rules. (1) (a) If the ethanol was produced in Montana from Montana agricultural products, including Montana wood or wood products, or if the ethanol was produced from non-Montana agricultural products when Montana products are not available, there is a tax incentive payable to ethanol distributors for distilling ethanol that:

(i) is to be blended with gasoline for sale as ethanol-blended gasoline in Montana;

(ii) was exported from Montana to be blended with gasoline for sale as ethanol-blended gasoline; or

(iii) is to be used in the production of ethyl butyl ether for use in reformulated gasoline.

(b) Payment must be made by the department out of the amount collected under 15-70-204.

(2) Except as provided in subsections (3) and (4), the tax incentive on each gallon of ethanol distilled in accordance with subsection (1) is 20 cents a gallon for each gallon that is 100% produced from Montana products, with the amount of the tax incentive for each gallon reduced proportionately, based upon the amount of agricultural or wood products not produced in Montana that is used in the production of the ethanol. The tax incentive is available to a facility for the first 6 years from the date that the facility begins production. The facility shall file a business plan with the department at least 2 years before the estimated beginning date of production. After the initial business plan is filed, the facility shall provide the department with quarterly updates regarding any changes to the business plan.

(3) Regardless of the ethanol tax incentive provided in subsection (2):

(a) the total payments made for the incentive under this part may not exceed $6 million in any consecutive 12-month period;

(b) a plant or facility is not eligible to receive the tax incentive unless the facility paid the standard prevailing rate of wages for heavy construction, as provided in ~~18-2-401(13)(a)~~ [section 2], during the construction phase; and

(c) an ethanol distributor is not eligible to receive the tax incentive unless at least:

(i) 20% Montana product is used to produce ethanol at the facility in the first year of production;

(ii) 25% Montana product is used to produce ethanol at the facility in the second year of production;

(iii) 35% Montana product is used to produce ethanol at the facility in the third year of production;

(iv) 45% Montana product is used to produce ethanol at the facility in the fourth year of production;

(v) 55% Montana product is used to produce ethanol at the facility in the fifth year of production; and

(vi) 65% Montana product is used to produce ethanol at the facility in the sixth year of production.

(4) (a) An ethanol distributor may not receive tax incentive payments under subsection (2) that exceed $2 million in any consecutive 12-month period. Subject to subsections (5) and (6), an ethanol distributor may receive tax incentive payments commencing the first quarter after a facility begins production. The distributor shall report its production to the department pursuant to 15-70-205.

(b) The distributor's report must include:

(i) the total number of gallons produced for the month;

(ii) the total amount of products purchased for the production of ethanol;

(iii) the percentage of the total amount of products purchased that are Montana products; and

(iv) other information that the department determines is necessary.

(5) (a) A plant shall apply for the incentive payment by submitting an application to the department when the plant has proof of commitment from lenders to finance the plant. Subject to subsection (5)(b), the department shall respond to the applicant with approval of the application within 45 days of receipt of the application, after confirming the lending commitment. Upon approval of the application, the department shall enter into a contract with the plant that ensures the state's commitment to pay incentive payments to qualifying ethanol plants.

(b) If the department is not able to confirm a lending commitment, the department shall deny the application.

(6) After the department has verified production, the application provisions of subsection (5) are met, and the plant owner presents proof of financing, the department shall begin payments of the ethanol tax incentives based on actual production according to the terms of subsections (2) and (4).

(7) The department shall adopt rules necessary to carry out the provisions of this section. The department shall coordinate and request information and input from the ethanol production industry as a part of the rulemaking process and shall follow the procedures provided in Title 2, chapter 4."

Section 11. Section 18-2-401, MCA, is amended to read:

"18-2-401. Definitions. Unless the context requires otherwise, in this part, the following definitions apply:

(1) (a) ~~A "bona~~ "Bona fide Montana resident ~~of Montana~~" ~~is a person~~ means an individual who, at the time of employment and immediately prior to the time of employment, has lived in this state in a manner and for a time that is sufficient to clearly justify the conclusion that the ~~person's~~ individual's past habitation in this state

has been coupled with an intention to make ~~it the person's~~ this state the individual's home. ~~Persons~~

(b) Individuals who come to Montana solely in ~~pursuance~~ pursuit of ~~any~~ a contract or an agreement to perform labor may not be considered to be bona fide Montana residents ~~of Montana~~ within the meaning and for the purpose of this part.

(2) "Commissioner" means the commissioner of labor and industry provided for in 2-15-1701.

(3) (a) "Construction services" means work performed by an individual in building construction, heavy construction, highway construction, and remodeling work.

(b) The term does not include:

(i) engineering, superintendence, management, office, or clerical work on a public works contract; or

(ii) consulting contracts, contracts with commercial suppliers for goods and supplies, or contracts with professionals licensed under state law.

(4) "Contractor" means any individual, general contractor, subcontractor, firm, association, partnership, corporation, limited liability partnership, or limited liability company engaged in construction services.

(5) "Department" means the department of labor and industry provided for in 2-15-1701.

(6) "District" means a prevailing wage rate district established as provided in 18-2-411.

(7) "Employer" means any individual, firm, association, partnership, corporation, limited liability partnership, or limited liability company engaged in nonconstruction services.

~~(8) "Heavy and highway construction wage rates" means wage rates, including fringe benefits for health and welfare and pension contributions, that meet the requirements of the Employee Retirement Income Security Act of 1974 and other bona fide programs approved by the United States department of labor and zone pay and travel allowance that are determined and established statewide for heavy and highway construction projects, such as alteration or repair of roads, streets, highways, alleys, runways, trails, parking areas, utility rights-of-way, staging yards located on or off the right-of-way, or new or reopened pits that produce aggregate, asphalt, concrete, or backfill when the pit does not normally sell to the general public.~~

(8) "Fringe benefits" means health, welfare, and pension contributions that meet the requirements of the Employee Retirement Income Security Act of 1974, 29 U.S.C. 1001, et seq., and other bona fide programs approved by the U.S. department of labor.

(9) "Nonconstruction services" means work performed by an individual, not including management, office, or clerical work, for:

(a) the maintenance of publicly owned buildings and facilities, including public highways, roads, streets, and alleys;

(b) custodial or security services for publicly owned buildings and facilities;

(c) grounds maintenance for publicly owned property;

(d) the operation of public drinking water supply, waste collection, and waste disposal systems;

(e) law enforcement, including janitors and prison guards;

(f) fire protection;

(g) public or school transportation driving;

(h) nursing, nurse's aid services, and medical laboratory technician services;

(i) material and mail handling;

(j) food service and cooking;

(k) motor vehicle and construction equipment repair and servicing; and

(l) appliance and office machine repair and servicing.

(10) "Project location" means the construction site where a public works project involving construction services is being built, installed, or otherwise improved or reclaimed, as specified on the project plans and specifications.

(11) (a) "Public works contract" means a contract for construction services let by the state, county, municipality, school district, or political subdivision or for nonconstruction services let by the state, county, municipality, or political subdivision in which the total cost of the contract is in excess of $25,000. The nonconstruction services classification does not apply to any school district that at any time prior to April 27, 1999, contracted with a private contractor for the provision of nonconstruction services on behalf of the district.

(b) The term does not include contracts entered into by the department of public health and human services for the provision of human services.

(12) "Special circumstances" means all work performed at a facility that is built or developed for a specific Montana public works project and that is located in a prevailing wage district that contains the project location or that is located in a contiguous prevailing wage district.

(13) ~~(a)~~ "Standard prevailing rate of wages" or "standard prevailing wage" means the rates established as provided in:

(a) [section 1] for building construction services;

(b) [section 2] for heavy construction services and for highway construction services; and

(c) [section 3] for nonconstruction services.

~~(i) the heavy and highway construction wage rates applicable to heavy and highway construction projects; or~~

~~(ii) those wages, other than heavy and highway construction wages, including fringe benefits for health and welfare and pension contributions, that meet the requirements of the Employee Retirement Security Act of 1974 and other bona fide programs approved by the United States department of labor and travel allowance that are paid in the district by other contractors for work of a similar character performed in that district by each craft, classification, or type of worker needed to complete a contract under this part. In each district, the standard prevailing rate of wages must be computed by the department based on work performed by electrical contractors who are licensed under Title 37, chapter 68, master plumbers who are licensed under Title 37, chapter 69, part 3, and Montana contractors who are registered under Title 39, chapter 9, and whose work is performed according to commercial building codes. The contractor survey must include information pertaining to the number of skilled craftspersons employed in the employer's peak month of employment and the wages and benefits paid for each craft. In setting the prevailing wages from the survey for each craft, the department shall use the weighted average wage for each craft, except in those cases in which the survey shows that 50% of the craftspersons are receiving the same wage. When the survey shows that 50% of the craftspersons are receiving the same wage, that wage is the prevailing wage for that craft. The work performed must be work of a similar character to the work performed in the district unless the annual survey of construction contractors and the biennial survey of nonconstruction service employers in the district does not generate sufficient data. If the survey produces insufficient data, the rate may be established by the use of other information or methods that the commissioner determines fairly establish the standard prevailing rate of wages. The commissioner shall establish by rule the method or methods by which the standard prevailing rate of wages is determined. The rules must establish a process for determining if there is insufficient data generated by the survey of employers in the district that requires the use of other methods of determining the standard prevailing rate of wages. The rules must identify the amount of data that constitutes insufficient data and require the commissioner of labor to use other methods of determining the standard prevailing rate of wages when insufficient data exists. The alternative methods of determining the prevailing rate of wages must provide for review and the incorporation of data from work of a similar character that is conducted as near as possible to the original district.~~

~~(b) When work of a similar character is not being performed in the district, the standard prevailing rate of wages, including fringe benefits for health and welfare and pension contributions, that meets the requirements of the Employee Retirement Security Act of 1974 and other bona fide programs approved by the United States department of labor and the rate of travel allowance must be those rates established by collective bargaining agreements in effect in the district for each craft, classification, or type of worker needed to complete the contract.~~

(14) "Work of a similar character" means work on private commercial projects as well as work on public

projects."

Section 12. Section 18-2-402, MCA, is amended to read:

"18-2-402. Standard prevailing rate of wages. (1) The ~~Montana~~ commissioner ~~of labor~~ may determine the standard prevailing rate of wages applicable to public works contracts under this part. The commissioner shall ~~undertake to~~ keep and maintain copies of collective bargaining agreements and other information on which the rates are based.

(2) The provisions of this part do not apply in those instances ~~where~~ in which the standard prevailing rate of wages is determined ~~pursuant to~~ by federal law.

(3) ~~In no instances where~~ Whenever this part is applicable, ~~shall~~ the standard prevailing rate of ~~wage be determined to~~ wages may be equal to but not greater than the highest applicable rate of ~~wage~~ wages in the area for the particular work in question as negotiated under existing and current collective bargaining agreements."

Section 13. Section 18-2-403, MCA, is amended to read:

"18-2-403. Preference of Montana labor in public works -- wages -- tax-exempt project -- federal exception. (1) In every public works contract, there must be inserted in the bid specification and the public works contract a provision requiring the contractor to give preference to the employment of bona fide Montana residents ~~of Montana~~ in the performance of the work.

(2) All public works contracts for construction services under subsection (1), except those for heavy and highway construction, that are conducted at the project location or under special circumstances must contain a provision requiring the contractor to pay:

(a) the travel allowance that is in effect and applicable to the district in which the work is being performed; and

(b) the standard prevailing rate of wages, including fringe benefits ~~for health and welfare and pension contributions~~, that~~:~~

~~(i) meets the requirements of the Employee Retirement Income Security Act of 1974 and other bona fide programs approved by the United States department of labor; and~~

~~(ii)~~ is in effect and applicable to the district in which the work is being performed.

(3) In every public works contract for heavy and highway construction, there must be inserted a provision to require the contractor to pay the ~~heavy and highway construction~~ standard prevailing wage rates established

statewide for heavy and highway construction services conducted at the project location or under special circumstances.

(4) Except as provided in subsection (5), all public works contracts for nonconstruction services under subsection (1) must contain a provision requiring the contractor to pay:

(a) the travel allowance that is in effect and applicable to the district in which the work is being performed; and

(b) the standard prevailing rate of wages, including fringe benefits ~~for health and welfare and pension contributions~~, that~~:~~

~~(i) meets the requirements of the Employee Retirement Income Security Act of 1974 and other bona fide programs approved by the United States department of labor; and~~

~~(ii)~~ is in effect and applicable to the district in which the work is being performed.

(5) An employer who, as a nonprofit organization providing individuals with vocational rehabilitation, performs a public works contract for nonconstruction services and who employs an individual whose earning capacity is impaired by a mental, emotional, or physical disability may pay the individual wages that are less than the standard prevailing wage if the employer complies with the provisions of section 214(c) of the Fair Labor Standards Act of 1938, 29 U.S.C. 214 and 29 CFR, part 525, and the wages paid are equal to or above the minimum wage required in ~~39-3-404~~ 39-3-409.

(6) Transportation of goods, supplies, materials, and manufactured or fabricated items to or from the project location is not subject to payment of the standard prevailing rate of wages.

(7) A contract, other than a public works contract, let for a project costing more than $25,000 and financed from the proceeds of bonds issued under Title 17, chapter 5, part 15, or Title 90, chapter 5 or 7, must contain a provision requiring the contractor to pay the standard prevailing wage rate in effect and applicable to the district in which the work is being performed unless the contractor performing the work has entered into a collective bargaining agreement covering the work to be performed.

(8) A public works contract may not be let to any person, firm, association, or corporation refusing to execute an agreement with the provisions described in subsections (1) through (7) in it, provided that in public works contracts involving the expenditure of federal-aid funds, this part may not be enforced in a manner as to conflict with or be contrary to the federal statutes prescribing a labor preference to honorably discharged veterans of the armed forces and prohibiting as unlawful any other preference or discrimination among citizens of the United States.

(9) Failure to include the provisions required by 18-2-422 in a public works contract relieves the

contractor from the contractor's obligation to pay the standard prevailing wage rate and places the obligation on the public contracting agency."

Section 14. Section 18-2-407, MCA, is amended to read:

"18-2-407. Forfeiture for failure to pay standard prevailing ~~wage~~ rate of wages. (1) Except as provided in 18-2-403, a contractor, subcontractor, or employer who pays workers or employees at less than the standard prevailing ~~wage~~ rate of wages as established under the public works contract shall forfeit to the department a penalty at a rate of up to 20% of the delinquent wages plus fringe benefits, attorney fees, audit fees, and court costs. Money collected by the department under this section must be deposited in the general fund. A contractor, subcontractor, or employer shall also forfeit to the employee the amount of wages owed plus $25 a day for each day that the employee was underpaid.

(2) Whenever it appears to the contracting agency or to the ~~Montana~~ commissioner ~~of labor and industry~~ that there is insufficient money due to the contractor or the employer under the terms of the contract to cover penalties, the ~~Montana~~ commissioner ~~of labor and industry~~ may, within 90 days after the filing of notice of completion of the project and its acceptance by the contracting agency, maintain an action in district court to recover all penalties and forfeitures due. This part does not prevent the individual worker who has been underpaid or the commissioner ~~of labor and industry~~ on behalf of all the underpaid workers from maintaining an action for recovery of the wages due under the contract as provided in Title 39, chapter 3, part 2~~, except that appeal of the hearings officer's decision is made directly to district court rather than to the board of personnel appeals~~."

Section 15. Section 18-2-411, MCA, is amended to read:

"18-2-411. Creation of prevailing wage rate districts. (1) Without taking into consideration heavy construction services and highway construction services wage rates, the commissioner shall divide the state into ~~at least~~ not more than 10 prevailing wage rate districts for building construction services and nonconstruction services.

(2) In initially determining the districts, the commissioner ~~must~~ shall:

(a) follow the rulemaking procedures in the Montana Administrative Procedure Act; and

(b) publish the reasons supporting the creation of each district.

(3) A district boundary may not be changed except for good cause and in accordance with the rulemaking procedures in the Montana Administrative Procedure Act.

(4) The presence of collective bargaining agreements in a particular area may not be the sole basis for

the creation of boundaries of a district, nor may the absence of collective bargaining agreements in a particular area be the sole basis for changing the boundaries of a district.

(5) For each prevailing wage rate district established under this section, the commissioner shall determine the standard prevailing rate of wages to be paid employees, as provided in ~~18-2-401 and 18-2-402~~ this part. The standard prevailing rate of wages for construction services, as determined by the commissioner in this subsection, must be used for calculating an apprentice's wage, as provided in 39-6-108."

Section 16. Section 18-2-412, MCA, is amended to read:

"18-2-412. Method for payment of standard prevailing wage. (1) To fulfill the obligation to pay the standard prevailing rate of wages under 18-2-403, a contractor or subcontractor may:

(a) pay the amount of fringe benefits and the basic hourly rate of pay that is part of the standard prevailing rate of wages directly to the worker or employee in cash;

(b) make an irrevocable contribution to a trustee or a third person pursuant to a fringe benefit fund, plan, or program that meets the requirements of the Employee Retirement Income Security Act of 1974 or that is a bona fide program approved by the ~~United States~~ U.S. department of labor; or

(c) make payments using any combination of methods set forth in subsections (1)(a) and (1)(b) so that the aggregate of payments and contributions is not less than the standard prevailing rate of wages, including fringe benefits ~~for health and welfare and pension contributions that meet the requirements of the Employee Retirement Income Security Act of 1974,~~ and travel~~, or other bona fide programs approved by the United States department of labor, that is~~ allowances, applicable to the district for the particular type of work being performed.

(2) The fringe benefit fund, plan, or program described in subsection (1)(b) must provide benefits to workers or employees for health care, pensions on retirement or death, life insurance, disability and sickness insurance, or bona fide programs that meet the requirements of the Employee Retirement Income Security Act of 1974 or that are approved by the ~~United States~~ U.S. department of labor.

(3) A private contractor or subcontractor shall file a copy of the fringe benefit fund, plan, or program described in subsection (2) with the department."

Section 17. Section 69-3-2005, MCA, is amended to read:

"69-3-2005. Procurement -- cost recovery -- reporting. (1) In meeting the requirements of this part, a public utility shall:

(a) conduct renewable energy solicitations under which the public utility offers to purchase renewable

energy credits, either with or without the associated electricity, under contracts of at least 10 years in duration; and

(b) consider the importance of geographically diverse rural economic development when procuring renewable energy credits.

(2) A public utility that intends to enter into contracts of less than 10 years in duration shall demonstrate to the commission that these contracts will provide a lower long-term cost of meeting the standard established in 69-3-2004.

(3) (a) Contracts signed for projects located in Montana must require all contractors to give preference to the employment of bona fide Montana residents, as defined in 18-2-401, in the performance of the work on the projects if the Montana residents have substantially equal qualifications to those of nonresidents.

(b) Contracts signed for projects located in Montana must require all contractors to pay the standard prevailing rate of wages for heavy construction, as provided in ~~18-2-401(13)(a)~~ [section 2], during the construction phase of the project.

(4) All contracts signed by a public utility to meet the requirements of this part are eligible for advanced approval under procedures established by the commission. Upon advanced approval by the commission, these contracts are eligible for cost recovery from ratepayers, except that nothing in this part limits the commission's ability to subsequently, in any future cost-recovery proceeding, inquire into the manner in which the public utility has managed the contract and to disallow cost recovery if the contract was not reasonably administered.

(5) A public utility or competitive electricity supplier shall submit renewable energy procurement plans to the commission in accordance with rules adopted by the commission. The plans must be submitted to the commission on or before:

~~(a) January 1, 2007, for the standard required in 69-3-2004(2);~~

~~(b) June 1, 2008, for the standard required in 69-3-2004(3);~~

~~(c)~~(a) June 1, 2013, for the standard required in 69-3-2004(4); and

~~(d)~~(b) any additional future dates as required by the commission.

(6) A public utility or competitive electricity supplier shall submit annual reports, in a format to be determined by the commission, demonstrating compliance with this part for each compliance year. The reports must be filed by March 1 of the year following the compliance year.

(7) For the purpose of implementing this part, the commission has regulatory authority over competitive electricity suppliers."

NEW SECTION. **Section 18. Codification instruction.** [Sections 1 through 5] are intended to be codified as an integral part of Title 18, chapter 2, part 4, and the provisions of Title 18, chapter 2, part 4, apply to [sections 1 through 5].

NEW SECTION. **Section 19. Saving clause.** [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

NEW SECTION. **Section 20. Effective date.** [This act] is effective July 1, 2009.

- END -

\ SENATE BILL NO. 308

INTRODUCED BY KEANE, ANKNEY, BRUEGGEMAN, COHENOUR, COONEY, GEBHARDT, GLASER, HAMLETT, KLOCK, LASLOVICH, A. NOONAN, O'HARA, STAHL, VILLA, WILSON

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATED TO THE STANDARD PREVAILING RATE OF WAGES FOR PUBLIC WORKS CONTRACTS; PROVIDING FOR WAGE AND BENEFIT SURVEYS AND ALTERNATE METHODOLOGIES; SPECIFYING PAYMENT TERMS FOR APPRENTICES WORKING ON PUBLIC WORKS CONTRACTS; LIMITING TO 10 THE MAXIMUM NUMBER OF PREVAILING WAGE RATE DISTRICTS; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 15-6-157, 15-6-158, 15-6-159, 15-24-3111, 15-70-522, 18-2-401, 18-2-402, 18-2-403, 18-2-407, 18-2-411, 18-2-412, AND 69-3-2005, MCA; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Standard prevailing rate of wages for building construction services.** (1) The department shall conduct an annual survey to calculate the standard prevailing rate of wages for building construction services using the process described in this section.

(2) The standard prevailing wage rates adopted under subsection (1) must be set for the districts established pursuant to 18-2-411.

(3) The department shall survey:

(a) electrical contractors who are licensed under Title 37, chapter 68, who perform commercial work;

(b) plumbers who are licensed under Title 37, chapter 69, whose work is performed according to commercial building codes; and

(c) construction contractors registered under Title 39, chapter 9, whose work is performed according to commercial building codes.

(4) The surveys required under subsection (3) must include those wages, including fringe benefits plus travel allowances if applicable, that are paid in the applicable district by other contractors for work of a similar character performed in that district by each craft, classification, or type of worker needed to complete a contract under this part.

(5) The contractor survey must include information pertaining to the number of skilled workers employed in the contractor's peak month of employment and the wages and benefits paid for each craft, classification, or

type of work. In setting the prevailing wages from the survey for each craft, classification, or type of work, the department shall use a weighted average wage for each craft, classification, or type of work, except in those cases in which the survey shows that at least 50% of the skilled workers are receiving the same wage. If the survey shows that at least 50% of the skilled workers are receiving the same wage, that wage is the prevailing wage for that craft, classification, or type of work.

(6) The work performed must be work of a similar character to the work performed in the applicable district unless the survey in the applicable district does not generate sufficient data. If the survey produces insufficient data, the rate may be established by the use of other information or methods that the commissioner determines fairly establish the standard prevailing rate of wages.

(7) (a) The commissioner shall establish by rule the methodology for determining the standard prevailing rate of wages. The rules must include an alternate methodology to determine the standard prevailing rate of wages whenever insufficient data is generated by the survey of contractors in the applicable district. The rules must identify the amount of data that constitutes insufficient data.

(b) The commissioner shall use an alternate methodology provided by rule to determine the standard prevailing rate of wages whenever insufficient data exists.

(c) The alternative method of determining the prevailing rate of wages must provide for review and the incorporation of data from work of a similar character, which must be based on a survey that is conducted as closely as possible to the original district.

(8) Whenever work of a similar character is not being performed in the district, the standard prevailing rate of wages, including fringe benefits and the rate of travel allowance, must be those rates established by collective bargaining agreements in effect in the applicable district for each craft, classification, or type of skilled worker needed to complete the contract.

NEW SECTION. **Section 2. Standard prevailing rate of wages for heavy construction services and for highway construction services -- definition.** (1) The department shall establish from time to time the standard prevailing rate of wages for heavy construction services and for highway construction services.

(2) In establishing the standard prevailing rate of wages for heavy construction services and for highway construction services, the department may either:

(a) conduct a survey of construction contractors registered under Title 39, chapter 9, who perform heavy construction services or highway construction services; or

(b) adopt by reference through rulemaking the rates established by the U.S. department of labor under

the federal Davis-Bacon Act, 29 CFR 1 et seq., for projects in Montana.

(3) For the purposes of this section, the term "standard prevailing rate of wages for heavy construction services and for highway construction services" means wage rates, including fringe benefits plus zone pay and travel allowances that are determined and established statewide for heavy construction projects and highway construction projects. The department may define by rule the terms heavy construction projects and highway construction projects. The definitions of heavy construction projects and highway construction projects must include but are not limited to projects the same as or similar to the construction, alteration, or repair of roads, streets, highways, alleys, runways, airport runways and ramps, dams, powerhouses, canals, channels, pipelines, parking areas, utility rights-of-way, staging yards located on or off the right-of-way, or new or reopened pits that produce aggregate, asphalt, concrete, or backfill when the pit does not normally sell to the general public.

NEW SECTION. **Section 3. Standard prevailing rate of wages for nonconstruction services -- survey.** (1) The department shall conduct an annual survey to calculate the standard prevailing rate of wages for nonconstruction services using the process described in this section.

(2) The standard prevailing wage rates adopted under subsection (1) must be set for the districts established under 18-2-411.

(3) (a) The department shall survey those employers that the department determines provide nonconstruction services in Montana in fulfillment of public works contracts.

(b) The department may survey employers that request to be included in the survey related to the nonconstruction services standard prevailing rate of wages or employers whose names and addresses are supplied by a political subdivision of the state as employers who have submitted bona fide bids or responses to requests for proposals for public works contracts for nonconstruction services.

(4) If the department does not survey an employer who is required to be surveyed under subsection (3)(a) or eligible to be surveyed under subsection (3)(b), the resulting survey and the ratesetting process remain valid.

(5) The survey must include:

(a) those wages, including fringe benefits and travel allowances if applicable, that are paid in the applicable district by other employers for work of a similar character performed in that district by each craft, classification, or type of worker needed to complete a contract under this part; and

(b) information pertaining to the number of workers employed in the employer's peak month of employment.

(6) In setting the standard prevailing rate of wages for nonconstruction services from the survey for each craft, classification, or type of work, the department shall use the weighted average wage for each craft, classification, or type of work, except in cases in which the survey shows that at least 50% of the workers are receiving the same wage. If the survey shows that at least 50% of the workers are receiving the same wage, that wage is the standard prevailing rate of wages for that craft, classification, or type of work.

(7) The work performed must be work of a similar character to the work performed in the applicable district unless the survey in the applicable district does not generate sufficient data. If the survey produces insufficient data, the standard prevailing rate of wages may be established by the use of other information or an alternate methodology as provided in subsection (8).

(8) (a) The commissioner shall establish by rule the methodology for determining the standard prevailing rate of wages. The rules must include an alternate methodology to determine the standard prevailing rate of wages whenever insufficient data is generated by the survey of contractors in the applicable district. The rules must identify the amount of data that constitutes insufficient data.

(b) The commissioner shall use an alternate methodology provided by rule to determine the standard prevailing rate of wages whenever insufficient data exists.

(c) The alternative method of determining the prevailing rate of wages must provide for review and the incorporation of data from work of a similar character, which must be based on a survey that is conducted as closely as possible to the original district.

(9) Whenever work of a similar character is not being performed in the district, the standard prevailing rate of wages, including fringe benefits, must be those rates established by collective bargaining agreements in effect in the applicable district for each craft, classification, or type of skilled worker needed to complete the contract.

NEW SECTION. **Section 4. Wages paid to registered apprentices.** (1) Only an apprentice whose indenture agreement is registered with the department under Title 39, chapter 6, or recognized by the department as being registered with an appropriate registration agency of another state or the federal government may be paid as provided in subsection (2) when working on a public works contract. An apprentice whose indenture agreement is not registered with or recognized by the department must be paid the full amount of the standard prevailing rate of wages, including any applicable travel allowances.

(2) A recognized, registered apprentice must be paid the percentage of the standard prevailing rate of wages provided for in the apprenticeship standards applicable to that apprentice. The percentage amount applies

to wage rates only and not to fringe benefits. The full amount of any applicable fringe benefits must be paid to the apprentice while the apprentice is working on the public works contract.

NEW SECTION. **Section 5. Wage rate adjustments for multiyear contracts.** (1) Any public works contract that by the terms of the original contract calls for more than 30 months to fully perform must include a provision to adjust, as provided in subsection (2), the standard prevailing rate of wages to be paid to the workers performing the contract.

(2) The standard prevailing rate of wages paid to workers under a contract subject to this section must be adjusted 12 months after the date of the award of the public works contract. The amount of the adjustment must be a 3% increase. The adjustment must be made and applied every 12 months for the term of the contract.

(3) Any increase in the standard rate of prevailing wages for workers under this section is the sole responsibility of the contractor and any subcontractors and not the contracting agency.

Section 6. Section 15-6-157, MCA, is amended to read:

"15-6-157. Class fourteen property -- description -- taxable percentage. (1) Class fourteen property includes:

(a) wind generation facilities of a centrally assessed electric power company;

(b) wind generation facilities owned or operated by an exempt wholesale generator or an entity certified as an exempt wholesale generator pursuant to section 32 of the Public Utility Holding Company Act of 1935, 15 U.S.C. 79z-5a;

(c) noncentrally assessed wind generation facilities owned or operated by any electrical energy producer;

(d) wind generation facilities owned or operated by cooperative rural electric associations described under 15-6-137;

(e) all property of a biodiesel production facility, as defined in 15-24-3102, that has commenced construction after June 1, 2007;

(f) all property of a biogas production facility, as defined in 15-24-3102, that has commenced construction after June 1, 2007;

(g) all property of a biomass gasification facility, as defined in 15-24-3102;

(h) all property of a coal gasification facility, as defined in 15-24-3102, except for property in subsection (1)(k) of this section, that sequesters carbon dioxide;

(i) all property of an ethanol production facility, as defined in 15-24-3102, that has commenced

construction after June 1, 2007;

(j) all property of a geothermal facility, as defined in 15-24-3102;

(k) all property of an integrated gasification combined cycle facility, as defined in 15-24-3102, that sequesters carbon dioxide, as required by 15-24-3111(4)(c);

(l) all property or a portion of the property of a renewable energy manufacturing facility, as defined in 15-24-3102, that has commenced construction after June 1, 2007;

(m) all property of a natural gas combined cycle facility;

(n) equipment that is used to capture and to prepare for transport carbon dioxide that will be sequestered or injected for the purpose of enhancing the recovery of oil and gas, other than that equipment at coal combustion plants of the types that are generally in commercial use as of December 31, 2007, that commence construction after December 31, 2007;

(o) high-voltage direct-current transmission lines and associated equipment and structures, including converter stations and interconnections, other than property classified under 15-6-159, that:

(i) originate in Montana with a converter station located in Montana east of the continental divide and that are constructed after July 1, 2007;

(ii) are certified under the Montana Major Facility Siting Act; and

(iii) provide access to energy markets for Montana electrical generation facilities listed in this section that commenced construction after June 1, 2007;

(p) all property of electric transmission lines, including substations, that originate at facilities specified in this subsection (1), with at least 90% of electricity carried by the line originating at facilities specified in this subsection (1) and terminating at an existing transmission line or substation that has commenced construction after June 1, 2007;

(q) the qualified portion of an alternating current transmission line and its associated equipment and structures, including interconnections, that has commenced construction after June 1, 2007.

(2) (a) The qualified portion of an alternating current transmission line in subsection (1)(q) is that percentage, as determined by the department of environmental quality, of rated transmission capacity of the line contracted for on a firm basis by buyers or sellers of electricity generated by facilities specified in subsection (1) that are located in Montana.

(b) The department of revenue shall classify the total value of an alternating current transmission line in accordance with the determination made by the department of environmental quality pursuant to subsection (2)(a).

(c) The owner of property described under this subsection (2) shall disclose the location of the generation facilities specified in subsection (1) and information sufficient to demonstrate that there is a firm contract for transmission capacity available throughout the year. For purposes of the initial qualification, the owner is not required to disclose financial terms and conditions of contracts beyond that needed for classification.

(3) Class fourteen property does not include facilities:

(a) at which the standard prevailing rate of wages for heavy construction, as provided in ~~18-2-401(13)(a)~~ [section 2], was not paid during the construction phase; or

(b) that are exempt under 15-6-225.

(4) For the purposes of this section, "wind generation facilities" means any combination of a physically connected wind turbine or turbines, associated prime movers, and other associated property, including appurtenant land and improvements and personal property, that are normally operated together to produce electric power from wind.

(5) (a) The department of environmental quality shall determine whether to certify that a transmission line meets the criteria of subsection (1)(o), (1)(p), or (1)(q), as applicable, based on an application provided for in 15-24-3112. The department of environmental quality shall review the certification 10 years after the line is operational, and if the property no longer meets the requirements of subsection (1)(o), (1)(p), or (1)(q), the certification must be revoked.

(b) If the department of revenue finds that a certification previously granted was based on an application that the applicant knew was false or fraudulent, the property must be placed in class nine under 15-6-141. If the application was fraudulent, the applicant may be liable for additional taxes, penalty, and interest from the time that the certification was in effect.

(6) Class fourteen property is taxed at 3% of its market value."

Section 7. Section 15-6-158, MCA, is amended to read:

"15-6-158. Class fifteen property -- description -- taxable percentage. (1) Class fifteen property includes:

(a) carbon dioxide pipelines certified by the department of environmental quality under 15-24-3112 for the transportation of carbon dioxide for the purposes of sequestration or for use in closed-loop enhanced oil recovery operations;

(b) qualified liquid pipelines certified by the department of environmental quality under 15-24-3112;

(c) carbon sequestration equipment;

(d) equipment used in closed-loop enhanced oil recovery operations; and

(e) all property of pipelines, including pumping and compression equipment, carrying products other than carbon dioxide, that originate at facilities specified in 15-6-157(1), with at least 90% of the product carried by the pipeline originating at facilities specified in 15-6-157(1) and terminating at an existing pipeline or facility.

(2) For the purposes of this section, the following definitions apply:

(a) "Carbon dioxide pipeline" means a pipeline that transports carbon dioxide from a plant or facility that produces or captures carbon dioxide to a carbon sequestration point, including a closed-loop enhanced oil recovery operation.

(b) "Carbon sequestration" means the long-term storage of carbon dioxide from a carbon dioxide pipeline in geologic formations, including but not limited to deep saline formations, basalt or oil shale formations, depleted oil and gas reservoirs, unminable coal beds, and closed-loop enhanced oil recovery operations.

(c) "Carbon sequestration equipment" means the equipment used for carbon sequestration, including equipment used to inject carbon dioxide at the carbon sequestration point and equipment used to retain carbon dioxide in the sequestration location.

(d) "Carbon sequestration point" means the location where the carbon dioxide is to be confined for sequestration.

(e) "Closed-loop enhanced oil recovery operation" means all oil production equipment, as described in 15-6-138(1)(c), owned by an entity that owns or operates an operation that, after construction, installation, and testing has been completed and the full enhanced oil recovery process has been commenced, injects carbon dioxide to increase the amount of crude oil that can be recovered from a well and retains as much of the injected carbon dioxide as practicable, but not less than 85% of the carbon dioxide injected each year absent catastrophic or unforeseen occurrences.

(f) "Liquid pipeline" means a pipeline that is dedicated to using 90% of its pipeline capacity for transporting fuel or methane gas from a coal gasification facility, biodiesel production facility, biogas production facility, or ethanol production facility.

(g) "Plant or facility that produces or captures carbon dioxide" means a facility that produces a flow of carbon dioxide that can be sequestered or used in a closed-loop enhanced oil recovery operation. This does not include wells from which the primary product is carbon dioxide.

(3) Class fifteen property does not include a carbon dioxide pipeline, liquid pipeline, or closed-loop enhanced oil recovery operation for which, during construction, the standard prevailing wages for heavy construction, as provided in ~~18-2-401(13)(a)~~ [section 2], were not paid during the construction phase.

(4) Class fifteen property is taxed at 3% of its market value."

Section 8. Section 15-6-159, MCA, is amended to read:

"15-6-159. Class sixteen property -- description -- taxable percentage. (1) Class sixteen property includes high-voltage direct-current converter stations that are constructed in a location and manner so that the converter station can direct power to two different regional power grids.

(2) Class sixteen property does not include property described in subsection (1) for which the standard prevailing rate of wages for heavy construction, as provided in ~~18-2-401(13)(a)~~ [section 2], was not paid during the construction phase.

(3) (a) The department shall determine whether to certify that the property meets the criteria of subsection (1).

(b) If the department finds that a certification previously granted was based on an application that the applicant knew was false or fraudulent, the property must be placed in class nine under 15-6-141. If the application was fraudulent, the applicant may be liable for additional taxes, penalty, and interest from the time that the certification was in effect.

(4) Class sixteen property is taxed at 2.25% of its market value."

Section 9. Section 15-24-3111, MCA, is amended to read:

"15-24-3111. Energy production or development -- tax abatement -- eligibility. (1) A facility listed in subsection (3), clean advanced coal research and development equipment, and renewable energy research and development equipment may qualify for an abatement of property tax liability pursuant to this part.

(2) (a) If the abatement is granted for a facility listed in subsection (3), the qualifying facility must be assessed at 50% of its taxable value for the qualifying period.

(b) If the abatement is granted for clean advanced coal research and development equipment or renewable energy research and development equipment, the qualifying equipment, up to the first $1 million of the value of equipment at a facility, must be assessed at 50% of its taxable value for the qualifying period. There is no abatement for any portion of the value of equipment at a facility in excess of $1 million.

(c) The abatement applies to all mills levied against the qualifying facility or equipment.

(3) Subject to subsections (4) and (5), the following facilities or property may qualify for the abatement allowed under this part:

(a) biodiesel production facilities;

(b) biogas production facilities;

(c) biomass gasification facilities;

(d) coal gasification facilities for which carbon dioxide from the coal gasification process is sequestered;

(e) ethanol production facilities;

(f) geothermal facilities;

(g) renewable energy manufacturing facilities;

(h) clean advanced coal research and development equipment and renewable energy research and development equipment;

(i) a natural gas combined cycle facility that offsets a portion of the carbon dioxide produced through carbon credit offsets;

(j) transmission lines and associated equipment and structures classified in 15-6-157;

(k) converter stations classified under 15-6-159;

(l) carbon sequestration equipment as defined in 15-6-158; and

(m) pipelines classified under 15-6-158.

(4) (a) In order to qualify for the abatement under this part, a facility listed in subsection (3) must meet the following requirements:

(i) commencement of construction of the facility must occur after June 1, 2007; and

(ii) the standard prevailing rate of wages for heavy construction, as provided in ~~18-2-401(13)(a)~~ [section 2], must be paid during the construction phase of the facility.

(b) In order to qualify for the abatement under this part, clean advanced coal research and development equipment and renewable energy research and development equipment must be placed into service after June 30, 2007.

(c) For the facility to qualify under subsection (3)(d), the carbon dioxide produced from the gasification process must be sequestered at a rate that is practically obtainable but may not be less than 65%.

(d) Integrated gasification combined cycle facilities for which a permit under Title 75, chapter 2, is applied for after December 31, 2014, do not qualify under subsection (3)(d).

(e) To qualify under subsection (3)(i), the facility shall offset carbon dioxide emissions by the percentage determined in 15-24-3116.

(5) To qualify for an abatement, the facility or clean advanced coal research and development equipment and renewable energy research and development equipment must be certified as provided in 15-24-3112.

(6) Upon termination of the qualifying period, the abatement ceases and the property for which the

abatement had been granted must be assessed at 100% of its taxable value.

(7) For the purposes of this section, "qualifying period" means the construction period and the first 15 years after the facility commences operation or the clean advanced coal research and development equipment or renewable energy research and development equipment is purchased. The total time of the qualifying period may not exceed 19 years."

Section 10. Section 15-70-522, MCA, is amended to read:

"15-70-522. Tax incentive for production of ethanol -- rules. (1) (a) If the ethanol was produced in Montana from Montana agricultural products, including Montana wood or wood products, or if the ethanol was produced from non-Montana agricultural products when Montana products are not available, there is a tax incentive payable to ethanol distributors for distilling ethanol that:

(i) is to be blended with gasoline for sale as ethanol-blended gasoline in Montana;

(ii) was exported from Montana to be blended with gasoline for sale as ethanol-blended gasoline; or

(iii) is to be used in the production of ethyl butyl ether for use in reformulated gasoline.

(b) Payment must be made by the department out of the amount collected under 15-70-204.

(2) Except as provided in subsections (3) and (4), the tax incentive on each gallon of ethanol distilled in accordance with subsection (1) is 20 cents a gallon for each gallon that is 100% produced from Montana products, with the amount of the tax incentive for each gallon reduced proportionately, based upon the amount of agricultural or wood products not produced in Montana that is used in the production of the ethanol. The tax incentive is available to a facility for the first 6 years from the date that the facility begins production. The facility shall file a business plan with the department at least 2 years before the estimated beginning date of production. After the initial business plan is filed, the facility shall provide the department with quarterly updates regarding any changes to the business plan.

(3) Regardless of the ethanol tax incentive provided in subsection (2):

(a) the total payments made for the incentive under this part may not exceed $6 million in any consecutive 12-month period;

(b) a plant or facility is not eligible to receive the tax incentive unless the facility paid the standard prevailing rate of wages for heavy construction, as provided in ~~18-2-401(13)(a)~~ [section 2], during the construction phase; and

(c) an ethanol distributor is not eligible to receive the tax incentive unless at least:

(i) 20% Montana product is used to produce ethanol at the facility in the first year of production;

(ii) 25% Montana product is used to produce ethanol at the facility in the second year of production;

(iii) 35% Montana product is used to produce ethanol at the facility in the third year of production;

(iv) 45% Montana product is used to produce ethanol at the facility in the fourth year of production;

(v) 55% Montana product is used to produce ethanol at the facility in the fifth year of production; and

(vi) 65% Montana product is used to produce ethanol at the facility in the sixth year of production.

(4) (a) An ethanol distributor may not receive tax incentive payments under subsection (2) that exceed $2 million in any consecutive 12-month period. Subject to subsections (5) and (6), an ethanol distributor may receive tax incentive payments commencing the first quarter after a facility begins production. The distributor shall report its production to the department pursuant to 15-70-205.

(b) The distributor's report must include:

(i) the total number of gallons produced for the month;

(ii) the total amount of products purchased for the production of ethanol;

(iii) the percentage of the total amount of products purchased that are Montana products; and

(iv) other information that the department determines is necessary.

(5) (a) A plant shall apply for the incentive payment by submitting an application to the department when the plant has proof of commitment from lenders to finance the plant. Subject to subsection (5)(b), the department shall respond to the applicant with approval of the application within 45 days of receipt of the application, after confirming the lending commitment. Upon approval of the application, the department shall enter into a contract with the plant that ensures the state's commitment to pay incentive payments to qualifying ethanol plants.

(b) If the department is not able to confirm a lending commitment, the department shall deny the application.

(6) After the department has verified production, the application provisions of subsection (5) are met, and the plant owner presents proof of financing, the department shall begin payments of the ethanol tax incentives based on actual production according to the terms of subsections (2) and (4).

(7) The department shall adopt rules necessary to carry out the provisions of this section. The department shall coordinate and request information and input from the ethanol production industry as a part of the rulemaking process and shall follow the procedures provided in Title 2, chapter 4."

Section 11. Section 18-2-401, MCA, is amended to read:

"18-2-401. Definitions. Unless the context requires otherwise, in this part, the following definitions apply:

(1) (a) ~~A "bona~~ "Bona fide Montana resident ~~of Montana~~" ~~is a person~~ means an individual who, at the

time of employment and immediately prior to the time of employment, has lived in this state in a manner and for a time that is sufficient to clearly justify the conclusion that the ~~person's~~ individual's past habitation in this state has been coupled with an intention to make ~~it the person's~~ this state the individual's home. ~~Persons~~

(b) Individuals who come to Montana solely in ~~pursuance~~ pursuit of ~~any~~ a contract or an agreement to perform labor may not be considered to be bona fide Montana residents ~~of Montana~~ within the meaning and for the purpose of this part.

(2) "Commissioner" means the commissioner of labor and industry provided for in 2-15-1701.

(3) (a) "Construction services" means work performed by an individual in building construction, heavy construction, highway construction, and remodeling work.

(b) The term does not include:

(i) engineering, superintendence, management, office, or clerical work on a public works contract; or

(ii) consulting contracts, contracts with commercial suppliers for goods and supplies, or contracts with professionals licensed under state law.

(4) "Contractor" means any individual, general contractor, subcontractor, firm, association, partnership, corporation, limited liability partnership, or limited liability company engaged in construction services.

(5) "Department" means the department of labor and industry provided for in 2-15-1701.

(6) "District" means a prevailing wage rate district established as provided in 18-2-411.

(7) "Employer" means any individual, firm, association, partnership, corporation, limited liability partnership, or limited liability company engaged in nonconstruction services.

~~(8) "Heavy and highway construction wage rates" means wage rates, including fringe benefits for health and welfare and pension contributions, that meet the requirements of the Employee Retirement Income Security Act of 1974 and other bona fide programs approved by the United States department of labor and zone pay and travel allowance that are determined and established statewide for heavy and highway construction projects, such as alteration or repair of roads, streets, highways, alleys, runways, trails, parking areas, utility rights-of-way, staging yards located on or off the right-of-way, or new or reopened pits that produce aggregate, asphalt, concrete, or backfill when the pit does not normally sell to the general public.~~

(8) "Fringe benefits" means health, welfare, and pension contributions that meet the requirements of the Employee Retirement Income Security Act of 1974, 29 U.S.C. 1001, et seq., and other bona fide programs approved by the U.S. department of labor.

(9) "Nonconstruction services" means work performed by an individual, not including management, office, or clerical work, for:

(a) the maintenance of publicly owned buildings and facilities, including public highways, roads, streets, and alleys;

(b) custodial or security services for publicly owned buildings and facilities;

(c) grounds maintenance for publicly owned property;

(d) the operation of public drinking water supply, waste collection, and waste disposal systems;

(e) law enforcement, including janitors and prison guards;

(f) fire protection;

(g) public or school transportation driving;

(h) nursing, nurse's aid services, and medical laboratory technician services;

(i) material and mail handling;

(j) food service and cooking;

(k) motor vehicle and construction equipment repair and servicing; and

(l) appliance and office machine repair and servicing.

(10) "Project location" means the construction site where a public works project involving construction services is being built, installed, or otherwise improved or reclaimed, as specified on the project plans and specifications.

(11) (a) "Public works contract" means a contract for construction services let by the state, county, municipality, school district, or political subdivision or for nonconstruction services let by the state, county, municipality, or political subdivision in which the total cost of the contract is in excess of $25,000. The nonconstruction services classification does not apply to any school district that at any time prior to April 27, 1999, contracted with a private contractor for the provision of nonconstruction services on behalf of the district.

(b) The term does not include contracts entered into by the department of public health and human services for the provision of human services.

(12) "Special circumstances" means all work performed at a facility that is built or developed for a specific Montana public works project and that is located in a prevailing wage district that contains the project location or that is located in a contiguous prevailing wage district.

(13) ~~(a)~~ "Standard prevailing rate of wages" or "standard prevailing wage" means the rates established as provided in:

(a) [section 1] for building construction services;

(b) [section 2] for heavy construction services and for highway construction services; and

(c) [section 3] for nonconstruction services.

~~(i) the heavy and highway construction wage rates applicable to heavy and highway construction projects; or~~

~~(ii) those wages, other than heavy and highway construction wages, including fringe benefits for health and welfare and pension contributions, that meet the requirements of the Employee Retirement Security Act of 1974 and other bona fide programs approved by the United States department of labor and travel allowance that are paid in the district by other contractors for work of a similar character performed in that district by each craft, classification, or type of worker needed to complete a contract under this part. In each district, the standard prevailing rate of wages must be computed by the department based on work performed by electrical contractors who are licensed under Title 37, chapter 68, master plumbers who are licensed under Title 37, chapter 69, part 3, and Montana contractors who are registered under Title 39, chapter 9, and whose work is performed according to commercial building codes. The contractor survey must include information pertaining to the number of skilled craftspersons employed in the employer's peak month of employment and the wages and benefits paid for each craft. In setting the prevailing wages from the survey for each craft, the department shall use the weighted average wage for each craft, except in those cases in which the survey shows that 50% of the craftspersons are receiving the same wage. When the survey shows that 50% of the craftspersons are receiving the same wage, that wage is the prevailing wage for that craft. The work performed must be work of a similar character to the work performed in the district unless the annual survey of construction contractors and the biennial survey of nonconstruction service employers in the district does not generate sufficient data. If the survey produces insufficient data, the rate may be established by the use of other information or methods that the commissioner determines fairly establish the standard prevailing rate of wages. The commissioner shall establish by rule the method or methods by which the standard prevailing rate of wages is determined. The rules must establish a process for determining if there is insufficient data generated by the survey of employers in the district that requires the use of other methods of determining the standard prevailing rate of wages. The rules must identify the amount of data that constitutes insufficient data and require the commissioner of labor to use other methods of determining the standard prevailing rate of wages when insufficient data exists. The alternative methods of determining the prevailing rate of wages must provide for review and the incorporation of data from work of a similar character that is conducted as near as possible to the original district.~~

~~(b) When work of a similar character is not being performed in the district, the standard prevailing rate of wages, including fringe benefits for health and welfare and pension contributions, that meets the requirements of the Employee Retirement Security Act of 1974 and other bona fide programs approved by the United States department of labor and the rate of travel allowance must be those rates established by collective bargaining~~

~~agreements in effect in the district for each craft, classification, or type of worker needed to complete the contract.~~

(14) "Work of a similar character" means work on private commercial projects as well as work on public projects."

Section 12. Section 18-2-402, MCA, is amended to read:

"18-2-402. Standard prevailing rate of wages. (1) The ~~Montana~~ commissioner ~~of labor~~ may determine the standard prevailing rate of wages applicable to public works contracts under this part. The commissioner shall ~~undertake to~~ keep and maintain copies of collective bargaining agreements and other information on which the rates are based.

(2) The provisions of this part do not apply in those instances ~~where~~ in which the standard prevailing rate of wages is determined ~~pursuant to~~ by federal law.

(3) ~~In no instances where~~ Whenever this part is applicable, ~~shall~~ the standard prevailing rate of ~~wage be determined to~~ wages may be equal to but not greater than the highest applicable rate of ~~wage~~ wages in the area for the particular work in question as negotiated under existing and current collective bargaining agreements."

Section 13. Section 18-2-403, MCA, is amended to read:

"18-2-403. Preference of Montana labor in public works -- wages -- tax-exempt project -- federal exception. (1) In every public works contract, there must be inserted in the bid specification and the public works contract a provision requiring the contractor to give preference to the employment of bona fide Montana residents ~~of Montana~~ in the performance of the work.

(2) All public works contracts for construction services under subsection (1), except those for heavy and highway construction, that are conducted at the project location or under special circumstances must contain a provision requiring the contractor to pay:

(a) the travel allowance that is in effect and applicable to the district in which the work is being performed; and

(b) the standard prevailing rate of wages, including fringe benefits ~~for health and welfare and pension contributions~~, that~~:~~

~~(i) meets the requirements of the Employee Retirement Income Security Act of 1974 and other bona fide programs approved by the United States department of labor; and~~

~~(ii)~~ is in effect and applicable to the district in which the work is being performed.

(3) In every public works contract for heavy and highway construction, there must be inserted a provision to require the contractor to pay the ~~heavy and highway construction~~ standard prevailing wage rates established statewide for heavy and highway construction services conducted at the project location or under special circumstances.

(4) Except as provided in subsection (5), all public works contracts for nonconstruction services under subsection (1) must contain a provision requiring the contractor to pay:

(a) the travel allowance that is in effect and applicable to the district in which the work is being performed; and

(b) the standard prevailing rate of wages, including fringe benefits ~~for health and welfare and pension contributions~~, that~~:~~

~~(i) meets the requirements of the Employee Retirement Income Security Act of 1974 and other bona fide programs approved by the United States department of labor; and~~

~~(ii)~~ is in effect and applicable to the district in which the work is being performed.

(5) An employer who, as a nonprofit organization providing individuals with vocational rehabilitation, performs a public works contract for nonconstruction services and who employs an individual whose earning capacity is impaired by a mental, emotional, or physical disability may pay the individual wages that are less than the standard prevailing wage if the employer complies with the provisions of section 214(c) of the Fair Labor Standards Act of 1938, 29 U.S.C. 214 and 29 CFR, part 525, and the wages paid are equal to or above the minimum wage required in ~~39-3-404~~ 39-3-409.

(6) Transportation of goods, supplies, materials, and manufactured or fabricated items to or from the project location is not subject to payment of the standard prevailing rate of wages.

(7) A contract, other than a public works contract, let for a project costing more than $25,000 and financed from the proceeds of bonds issued under Title 17, chapter 5, part 15, or Title 90, chapter 5 or 7, must contain a provision requiring the contractor to pay the standard prevailing wage rate in effect and applicable to the district in which the work is being performed unless the contractor performing the work has entered into a collective bargaining agreement covering the work to be performed.

(8) A public works contract may not be let to any person, firm, association, or corporation refusing to execute an agreement with the provisions described in subsections (1) through (7) in it, provided that in public works contracts involving the expenditure of federal-aid funds, this part may not be enforced in a manner as to conflict with or be contrary to the federal statutes prescribing a labor preference to honorably discharged veterans of the armed forces and prohibiting as unlawful any other preference or discrimination among citizens of the

United States.

(9) Failure to include the provisions required by 18-2-422 in a public works contract relieves the contractor from the contractor's obligation to pay the standard prevailing wage rate and places the obligation on the public contracting agency."

Section 14. Section 18-2-407, MCA, is amended to read:

"18-2-407. Forfeiture for failure to pay standard prevailing ~~wage~~ rate of wages. (1) Except as provided in 18-2-403, a contractor, subcontractor, or employer who pays workers or employees at less than the standard prevailing ~~wage~~ rate of wages as established under the public works contract shall forfeit to the department a penalty at a rate of up to 20% of the delinquent wages plus fringe benefits, attorney fees, audit fees, and court costs. Money collected by the department under this section must be deposited in the general fund. A contractor, subcontractor, or employer shall also forfeit to the employee the amount of wages owed plus $25 a day for each day that the employee was underpaid.

(2) Whenever it appears to the contracting agency or to the ~~Montana~~ commissioner ~~of labor and industry~~ that there is insufficient money due to the contractor or the employer under the terms of the contract to cover penalties, the ~~Montana~~ commissioner ~~of labor and industry~~ may, within 90 days after the filing of notice of completion of the project and its acceptance by the contracting agency, maintain an action in district court to recover all penalties and forfeitures due. This part does not prevent the individual worker who has been underpaid or the commissioner ~~of labor and industry~~ on behalf of all the underpaid workers from maintaining an action for recovery of the wages due under the contract as provided in Title 39, chapter 3, part 2~~, except that appeal of the hearings officer's decision is made directly to district court rather than to the board of personnel appeals~~."

Section 15. Section 18-2-411, MCA, is amended to read:

"18-2-411. Creation of prevailing wage rate districts. (1) Without taking into consideration heavy construction services and highway construction services wage rates, the commissioner shall divide the state into ~~at least~~ not more than 10 prevailing wage rate districts for building construction services and nonconstruction services.

(2) In initially determining the districts, the commissioner ~~must~~ shall:

(a) follow the rulemaking procedures in the Montana Administrative Procedure Act; and

(b) publish the reasons supporting the creation of each district.

(3) A district boundary may not be changed except for good cause and in accordance with the

rulemaking procedures in the Montana Administrative Procedure Act.

(4) The presence of collective bargaining agreements in a particular area may not be the sole basis for the creation of boundaries of a district, nor may the absence of collective bargaining agreements in a particular area be the sole basis for changing the boundaries of a district.

(5) For each prevailing wage rate district established under this section, the commissioner shall determine the standard prevailing rate of wages to be paid employees, as provided in ~~18-2-401 and 18-2-402~~ this part. The standard prevailing rate of wages for construction services, as determined by the commissioner in this subsection, must be used for calculating an apprentice's wage, as provided in 39-6-108."

Section 16. Section 18-2-412, MCA, is amended to read:

"18-2-412. Method for payment of standard prevailing wage. (1) To fulfill the obligation to pay the standard prevailing rate of wages under 18-2-403, a contractor or subcontractor may:

(a) pay the amount of fringe benefits and the basic hourly rate of pay that is part of the standard prevailing rate of wages directly to the worker or employee in cash;

(b) make an irrevocable contribution to a trustee or a third person pursuant to a fringe benefit fund, plan, or program that meets the requirements of the Employee Retirement Income Security Act of 1974 or that is a bona fide program approved by the ~~United States~~ U.S. department of labor; or

(c) make payments using any combination of methods set forth in subsections (1)(a) and (1)(b) so that the aggregate of payments and contributions is not less than the standard prevailing rate of wages, including fringe benefits ~~for health and welfare and pension contributions that meet the requirements of the Employee Retirement Income Security Act of 1974,~~ and travel~~, or other bona fide programs approved by the United States department of labor, that is~~ allowances, applicable to the district for the particular type of work being performed.

(2) The fringe benefit fund, plan, or program described in subsection (1)(b) must provide benefits to workers or employees for health care, pensions on retirement or death, life insurance, disability and sickness insurance, or bona fide programs that meet the requirements of the Employee Retirement Income Security Act of 1974 or that are approved by the ~~United States~~ U.S. department of labor.

(3) A private contractor or subcontractor shall file a copy of the fringe benefit fund, plan, or program described in subsection (2) with the department."

Section 17. Section 69-3-2005, MCA, is amended to read:

"69-3-2005. Procurement -- cost recovery -- reporting. (1) In meeting the requirements of this part,

a public utility shall:

(a) conduct renewable energy solicitations under which the public utility offers to purchase renewable energy credits, either with or without the associated electricity, under contracts of at least 10 years in duration; and

(b) consider the importance of geographically diverse rural economic development when procuring renewable energy credits.

(2) A public utility that intends to enter into contracts of less than 10 years in duration shall demonstrate to the commission that these contracts will provide a lower long-term cost of meeting the standard established in 69-3-2004.

(3) (a) Contracts signed for projects located in Montana must require all contractors to give preference to the employment of bona fide Montana residents, as defined in 18-2-401, in the performance of the work on the projects if the Montana residents have substantially equal qualifications to those of nonresidents.

(b) Contracts signed for projects located in Montana must require all contractors to pay the standard prevailing rate of wages for heavy construction, as provided in ~~18-2-401(13)(a)~~ [section 2], during the construction phase of the project.

(4) All contracts signed by a public utility to meet the requirements of this part are eligible for advanced approval under procedures established by the commission. Upon advanced approval by the commission, these contracts are eligible for cost recovery from ratepayers, except that nothing in this part limits the commission's ability to subsequently, in any future cost-recovery proceeding, inquire into the manner in which the public utility has managed the contract and to disallow cost recovery if the contract was not reasonably administered.

(5) A public utility or competitive electricity supplier shall submit renewable energy procurement plans to the commission in accordance with rules adopted by the commission. The plans must be submitted to the commission on or before:

~~(a) January 1, 2007, for the standard required in 69-3-2004(2);~~

~~(b) June 1, 2008, for the standard required in 69-3-2004(3);~~

~~(c)~~(a) June 1, 2013, for the standard required in 69-3-2004(4); and

~~(d)~~(b) any additional future dates as required by the commission.

(6) A public utility or competitive electricity supplier shall submit annual reports, in a format to be determined by the commission, demonstrating compliance with this part for each compliance year. The reports must be filed by March 1 of the year following the compliance year.

(7) For the purpose of implementing this part, the commission has regulatory authority over competitive

electricity suppliers."

NEW SECTION. **Section 18. Codification instruction.** [Sections 1 through 5] are intended to be codified as an integral part of Title 18, chapter 2, part 4, and the provisions of Title 18, chapter 2, part 4, apply to [sections 1 through 5].

NEW SECTION. **Section 19. Saving clause.** [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

NEW SECTION. **Section 20. Effective date.** [This act] is effective July 1, 2009.

- END -

AN ACT REVISING LAWS RELATED TO THE STANDARD PREVAILING RATE OF WAGES FOR PUBLIC WORKS CONTRACTS; PROVIDING FOR WAGE AND BENEFIT SURVEYS AND ALTERNATE METHODOLOGIES; SPECIFYING PAYMENT TERMS FOR APPRENTICES WORKING ON PUBLIC WORKS CONTRACTS; LIMITING TO 10 THE MAXIMUM NUMBER OF PREVAILING WAGE RATE DISTRICTS; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 15-6-157, 15-6-158, 15-6-159, 15-24-3111, 15-70-522, 18-2-401, 18-2-402, 18-2-403, 18-2-407, 18-2-411, 18-2-412, AND 69-3-2005, MCA; AND PROVIDING AN EFFECTIVE DATE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Standard prevailing rate of wages for building construction services. (1) The department shall conduct an annual survey to calculate the standard prevailing rate of wages for building construction services using the process described in this section.

(2) The standard prevailing wage rates adopted under subsection (1) must be set for the districts established pursuant to 18-2-411.

(3) The department shall survey:

(a) electrical contractors who are licensed under Title 37, chapter 68, who perform commercial work;

(b) plumbers who are licensed under Title 37, chapter 69, whose work is performed according to commercial building codes; and

(c) construction contractors registered under Title 39, chapter 9, whose work is performed according to commercial building codes.

(4) The surveys required under subsection (3) must include those wages, including fringe benefits plus travel allowances if applicable, that are paid in the applicable district by other contractors for work of a similar character performed in that district by each craft, classification, or type of worker needed to complete a contract under this part.

(5) The contractor survey must include information pertaining to the number of skilled workers employed in the contractor's peak month of employment and the wages and benefits paid for each craft, classification, or type of work. In setting the prevailing wages from the survey for each craft, classification, or type of work, the

department shall use a weighted average wage for each craft, classification, or type of work, except in those cases in which the survey shows that at least 50% of the skilled workers are receiving the same wage. If the survey shows that at least 50% of the skilled workers are receiving the same wage, that wage is the prevailing wage for that craft, classification, or type of work.

(6) The work performed must be work of a similar character to the work performed in the applicable district unless the survey in the applicable district does not generate sufficient data. If the survey produces insufficient data, the rate may be established by the use of other information or methods that the commissioner determines fairly establish the standard prevailing rate of wages.

(7) (a) The commissioner shall establish by rule the methodology for determining the standard prevailing rate of wages. The rules must include an alternate methodology to determine the standard prevailing rate of wages whenever insufficient data is generated by the survey of contractors in the applicable district. The rules must identify the amount of data that constitutes insufficient data.

(b) The commissioner shall use an alternate methodology provided by rule to determine the standard prevailing rate of wages whenever insufficient data exists.

(c) The alternative method of determining the prevailing rate of wages must provide for review and the incorporation of data from work of a similar character, which must be based on a survey that is conducted as closely as possible to the original district.

(8) Whenever work of a similar character is not being performed in the district, the standard prevailing rate of wages, including fringe benefits and the rate of travel allowance, must be those rates established by collective bargaining agreements in effect in the applicable district for each craft, classification, or type of skilled worker needed to complete the contract.

Section 2. Standard prevailing rate of wages for heavy construction services and for highway construction services -- definition. (1) The department shall establish from time to time the standard prevailing rate of wages for heavy construction services and for highway construction services.

(2) In establishing the standard prevailing rate of wages for heavy construction services and for highway construction services, the department may either:

(a) conduct a survey of construction contractors registered under Title 39, chapter 9, who perform heavy construction services or highway construction services; or

(b) adopt by reference through rulemaking the rates established by the U.S. department of labor under

the federal Davis-Bacon Act, 29 CFR 1 et seq., for projects in Montana.

(3) For the purposes of this section, the term "standard prevailing rate of wages for heavy construction services and for highway construction services" means wage rates, including fringe benefits plus zone pay and travel allowances that are determined and established statewide for heavy construction projects and highway construction projects. The department may define by rule the terms heavy construction projects and highway construction projects. The definitions of heavy construction projects and highway construction projects must include but are not limited to projects the same as or similar to the construction, alteration, or repair of roads, streets, highways, alleys, runways, airport runways and ramps, dams, powerhouses, canals, channels, pipelines, parking areas, utility rights-of-way, staging yards located on or off the right-of-way, or new or reopened pits that produce aggregate, asphalt, concrete, or backfill when the pit does not normally sell to the general public.

Section 3. Standard prevailing rate of wages for nonconstruction services -- survey. (1) The department shall conduct an annual survey to calculate the standard prevailing rate of wages for nonconstruction services using the process described in this section.

(2) The standard prevailing wage rates adopted under subsection (1) must be set for the districts established under 18-2-411.

(3) (a) The department shall survey those employers that the department determines provide nonconstruction services in Montana in fulfillment of public works contracts.

(b) The department may survey employers that request to be included in the survey related to the nonconstruction services standard prevailing rate of wages or employers whose names and addresses are supplied by a political subdivision of the state as employers who have submitted bona fide bids or responses to requests for proposals for public works contracts for nonconstruction services.

(4) If the department does not survey an employer who is required to be surveyed under subsection (3)(a) or eligible to be surveyed under subsection (3)(b), the resulting survey and the ratesetting process remain valid.

(5) The survey must include:

(a) those wages, including fringe benefits and travel allowances if applicable, that are paid in the applicable district by other employers for work of a similar character performed in that district by each craft, classification, or type of worker needed to complete a contract under this part; and

(b) information pertaining to the number of workers employed in the employer's peak month of

employment.

(6) In setting the standard prevailing rate of wages for nonconstruction services from the survey for each craft, classification, or type of work, the department shall use the weighted average wage for each craft, classification, or type of work, except in cases in which the survey shows that at least 50% of the workers are receiving the same wage. If the survey shows that at least 50% of the workers are receiving the same wage, that wage is the standard prevailing rate of wages for that craft, classification, or type of work.

(7) The work performed must be work of a similar character to the work performed in the applicable district unless the survey in the applicable district does not generate sufficient data. If the survey produces insufficient data, the standard prevailing rate of wages may be established by the use of other information or an alternate methodology as provided in subsection (8).

(8) (a) The commissioner shall establish by rule the methodology for determining the standard prevailing rate of wages. The rules must include an alternate methodology to determine the standard prevailing rate of wages whenever insufficient data is generated by the survey of contractors in the applicable district. The rules must identify the amount of data that constitutes insufficient data.

(b) The commissioner shall use an alternate methodology provided by rule to determine the standard prevailing rate of wages whenever insufficient data exists.

(c) The alternative method of determining the prevailing rate of wages must provide for review and the incorporation of data from work of a similar character, which must be based on a survey that is conducted as closely as possible to the original district.

(9) Whenever work of a similar character is not being performed in the district, the standard prevailing rate of wages, including fringe benefits, must be those rates established by collective bargaining agreements in effect in the applicable district for each craft, classification, or type of skilled worker needed to complete the contract.

Section 4. Wages paid to registered apprentices. (1) Only an apprentice whose indenture agreement is registered with the department under Title 39, chapter 6, or recognized by the department as being registered with an appropriate registration agency of another state or the federal government may be paid as provided in subsection (2) when working on a public works contract. An apprentice whose indenture agreement is not registered with or recognized by the department must be paid the full amount of the standard prevailing rate of wages, including any applicable travel allowances.

(2) A recognized, registered apprentice must be paid the percentage of the standard prevailing rate of wages provided for in the apprenticeship standards applicable to that apprentice. The percentage amount applies to wage rates only and not to fringe benefits. The full amount of any applicable fringe benefits must be paid to the apprentice while the apprentice is working on the public works contract.

Section 5. Wage rate adjustments for multiyear contracts. (1) Any public works contract that by the terms of the original contract calls for more than 30 months to fully perform must include a provision to adjust, as provided in subsection (2), the standard prevailing rate of wages to be paid to the workers performing the contract.

(2) The standard prevailing rate of wages paid to workers under a contract subject to this section must be adjusted 12 months after the date of the award of the public works contract. The amount of the adjustment must be a 3% increase. The adjustment must be made and applied every 12 months for the term of the contract.

(3) Any increase in the standard rate of prevailing wages for workers under this section is the sole responsibility of the contractor and any subcontractors and not the contracting agency.

Section 6. Section 15-6-157, MCA, is amended to read:

"15-6-157. Class fourteen property -- description -- taxable percentage. (1) Class fourteen property includes:

(a) wind generation facilities of a centrally assessed electric power company;

(b) wind generation facilities owned or operated by an exempt wholesale generator or an entity certified as an exempt wholesale generator pursuant to section 32 of the Public Utility Holding Company Act of 1935, 15 U.S.C. 79z-5a;

(c) noncentrally assessed wind generation facilities owned or operated by any electrical energy producer;

(d) wind generation facilities owned or operated by cooperative rural electric associations described under 15-6-137;

(e) all property of a biodiesel production facility, as defined in 15-24-3102, that has commenced construction after June 1, 2007;

(f) all property of a biogas production facility, as defined in 15-24-3102, that has commenced construction after June 1, 2007;

(g) all property of a biomass gasification facility, as defined in 15-24-3102;

(h) all property of a coal gasification facility, as defined in 15-24-3102, except for property in subsection (1)(k) of this section, that sequesters carbon dioxide;

(i) all property of an ethanol production facility, as defined in 15-24-3102, that has commenced construction after June 1, 2007;

(j) all property of a geothermal facility, as defined in 15-24-3102;

(k) all property of an integrated gasification combined cycle facility, as defined in 15-24-3102, that sequesters carbon dioxide, as required by 15-24-3111(4)(c);

(l) all property or a portion of the property of a renewable energy manufacturing facility, as defined in 15-24-3102, that has commenced construction after June 1, 2007;

(m) all property of a natural gas combined cycle facility;

(n) equipment that is used to capture and to prepare for transport carbon dioxide that will be sequestered or injected for the purpose of enhancing the recovery of oil and gas, other than that equipment at coal combustion plants of the types that are generally in commercial use as of December 31, 2007, that commence construction after December 31, 2007;

(o) high-voltage direct-current transmission lines and associated equipment and structures, including converter stations and interconnections, other than property classified under 15-6-159, that:

(i) originate in Montana with a converter station located in Montana east of the continental divide and that are constructed after July 1, 2007;

(ii) are certified under the Montana Major Facility Siting Act; and

(iii) provide access to energy markets for Montana electrical generation facilities listed in this section that commenced construction after June 1, 2007;

(p) all property of electric transmission lines, including substations, that originate at facilities specified in this subsection (1), with at least 90% of electricity carried by the line originating at facilities specified in this subsection (1) and terminating at an existing transmission line or substation that has commenced construction after June 1, 2007;

(q) the qualified portion of an alternating current transmission line and its associated equipment and structures, including interconnections, that has commenced construction after June 1, 2007.

(2) (a) The qualified portion of an alternating current transmission line in subsection (1)(q) is that percentage, as determined by the department of environmental quality, of rated transmission capacity of the line contracted for on a firm basis by buyers or sellers of electricity generated by facilities specified in subsection (1)

that are located in Montana.

(b) The department of revenue shall classify the total value of an alternating current transmission line in accordance with the determination made by the department of environmental quality pursuant to subsection (2)(a).

(c) The owner of property described under this subsection (2) shall disclose the location of the generation facilities specified in subsection (1) and information sufficient to demonstrate that there is a firm contract for transmission capacity available throughout the year. For purposes of the initial qualification, the owner is not required to disclose financial terms and conditions of contracts beyond that needed for classification.

(3) Class fourteen property does not include facilities:

(a) at which the standard prevailing rate of wages for heavy construction, as provided in ~~18-2-401(13)(a)~~ [section 2], was not paid during the construction phase; or

(b) that are exempt under 15-6-225.

(4) For the purposes of this section, "wind generation facilities" means any combination of a physically connected wind turbine or turbines, associated prime movers, and other associated property, including appurtenant land and improvements and personal property, that are normally operated together to produce electric power from wind.

(5) (a) The department of environmental quality shall determine whether to certify that a transmission line meets the criteria of subsection (1)(o), (1)(p), or (1)(q), as applicable, based on an application provided for in 15-24-3112. The department of environmental quality shall review the certification 10 years after the line is operational, and if the property no longer meets the requirements of subsection (1)(o), (1)(p), or (1)(q), the certification must be revoked.

(b) If the department of revenue finds that a certification previously granted was based on an application that the applicant knew was false or fraudulent, the property must be placed in class nine under 15-6-141. If the application was fraudulent, the applicant may be liable for additional taxes, penalty, and interest from the time that the certification was in effect.

(6) Class fourteen property is taxed at 3% of its market value."

Section 7. Section 15-6-158, MCA, is amended to read:

"15-6-158. Class fifteen property -- description -- taxable percentage. (1) Class fifteen property includes:

(a) carbon dioxide pipelines certified by the department of environmental quality under 15-24-3112 for the transportation of carbon dioxide for the purposes of sequestration or for use in closed-loop enhanced oil recovery operations;

(b) qualified liquid pipelines certified by the department of environmental quality under 15-24-3112;

(c) carbon sequestration equipment;

(d) equipment used in closed-loop enhanced oil recovery operations; and

(e) all property of pipelines, including pumping and compression equipment, carrying products other than carbon dioxide, that originate at facilities specified in 15-6-157(1), with at least 90% of the product carried by the pipeline originating at facilities specified in 15-6-157(1) and terminating at an existing pipeline or facility.

(2) For the purposes of this section, the following definitions apply:

(a) "Carbon dioxide pipeline" means a pipeline that transports carbon dioxide from a plant or facility that produces or captures carbon dioxide to a carbon sequestration point, including a closed-loop enhanced oil recovery operation.

(b) "Carbon sequestration" means the long-term storage of carbon dioxide from a carbon dioxide pipeline in geologic formations, including but not limited to deep saline formations, basalt or oil shale formations, depleted oil and gas reservoirs, unminable coal beds, and closed-loop enhanced oil recovery operations.

(c) "Carbon sequestration equipment" means the equipment used for carbon sequestration, including equipment used to inject carbon dioxide at the carbon sequestration point and equipment used to retain carbon dioxide in the sequestration location.

(d) "Carbon sequestration point" means the location where the carbon dioxide is to be confined for sequestration.

(e) "Closed-loop enhanced oil recovery operation" means all oil production equipment, as described in 15-6-138(1)(c), owned by an entity that owns or operates an operation that, after construction, installation, and testing has been completed and the full enhanced oil recovery process has been commenced, injects carbon dioxide to increase the amount of crude oil that can be recovered from a well and retains as much of the injected carbon dioxide as practicable, but not less than 85% of the carbon dioxide injected each year absent catastrophic or unforeseen occurrences.

(f) "Liquid pipeline" means a pipeline that is dedicated to using 90% of its pipeline capacity for transporting fuel or methane gas from a coal gasification facility, biodiesel production facility, biogas production facility, or ethanol production facility.

(g) "Plant or facility that produces or captures carbon dioxide" means a facility that produces a flow of carbon dioxide that can be sequestered or used in a closed-loop enhanced oil recovery operation. This does not include wells from which the primary product is carbon dioxide.

(3) Class fifteen property does not include a carbon dioxide pipeline, liquid pipeline, or closed-loop enhanced oil recovery operation for which, during construction, the standard prevailing wages for heavy construction, as provided in ~~18-2-401(13)(a)~~ [section 2], were not paid during the construction phase.

(4) Class fifteen property is taxed at 3% of its market value."

Section 8. Section 15-6-159, MCA, is amended to read:

"15-6-159. Class sixteen property -- description -- taxable percentage. (1) Class sixteen property includes high-voltage direct-current converter stations that are constructed in a location and manner so that the converter station can direct power to two different regional power grids.

(2) Class sixteen property does not include property described in subsection (1) for which the standard prevailing rate of wages for heavy construction, as provided in ~~18-2-401(13)(a)~~ [section 2], was not paid during the construction phase.

(3) (a) The department shall determine whether to certify that the property meets the criteria of subsection (1).

(b) If the department finds that a certification previously granted was based on an application that the applicant knew was false or fraudulent, the property must be placed in class nine under 15-6-141. If the application was fraudulent, the applicant may be liable for additional taxes, penalty, and interest from the time that the certification was in effect.

(4) Class sixteen property is taxed at 2.25% of its market value."

Section 9. Section 15-24-3111, MCA, is amended to read:

"15-24-3111. Energy production or development -- tax abatement -- eligibility. (1) A facility listed in subsection (3), clean advanced coal research and development equipment, and renewable energy research and development equipment may qualify for an abatement of property tax liability pursuant to this part.

(2) (a) If the abatement is granted for a facility listed in subsection (3), the qualifying facility must be assessed at 50% of its taxable value for the qualifying period.

(b) If the abatement is granted for clean advanced coal research and development equipment or

renewable energy research and development equipment, the qualifying equipment, up to the first $1 million of the value of equipment at a facility, must be assessed at 50% of its taxable value for the qualifying period. There is no abatement for any portion of the value of equipment at a facility in excess of $1 million.

(c) The abatement applies to all mills levied against the qualifying facility or equipment.

(3) Subject to subsections (4) and (5), the following facilities or property may qualify for the abatement allowed under this part:

(a) biodiesel production facilities;

(b) biogas production facilities;

(c) biomass gasification facilities;

(d) coal gasification facilities for which carbon dioxide from the coal gasification process is sequestered;

(e) ethanol production facilities;

(f) geothermal facilities;

(g) renewable energy manufacturing facilities;

(h) clean advanced coal research and development equipment and renewable energy research and development equipment;

(i) a natural gas combined cycle facility that offsets a portion of the carbon dioxide produced through carbon credit offsets;

(j) transmission lines and associated equipment and structures classified in 15-6-157;

(k) converter stations classified under 15-6-159;

(l) carbon sequestration equipment as defined in 15-6-158; and

(m) pipelines classified under 15-6-158.

(4) (a) In order to qualify for the abatement under this part, a facility listed in subsection (3) must meet the following requirements:

(i) commencement of construction of the facility must occur after June 1, 2007; and

(ii) the standard prevailing rate of wages for heavy construction, as provided in ~~18-2-401(13)(a)~~ [section 2], must be paid during the construction phase of the facility.

(b) In order to qualify for the abatement under this part, clean advanced coal research and development equipment and renewable energy research and development equipment must be placed into service after June 30, 2007.

(c) For the facility to qualify under subsection (3)(d), the carbon dioxide produced from the gasification

process must be sequestered at a rate that is practically obtainable but may not be less than 65%.

(d) Integrated gasification combined cycle facilities for which a permit under Title 75, chapter 2, is applied for after December 31, 2014, do not qualify under subsection (3)(d).

(e) To qualify under subsection (3)(i), the facility shall offset carbon dioxide emissions by the percentage determined in 15-24-3116.

(5) To qualify for an abatement, the facility or clean advanced coal research and development equipment and renewable energy research and development equipment must be certified as provided in 15-24-3112.

(6) Upon termination of the qualifying period, the abatement ceases and the property for which the abatement had been granted must be assessed at 100% of its taxable value.

(7) For the purposes of this section, "qualifying period" means the construction period and the first 15 years after the facility commences operation or the clean advanced coal research and development equipment or renewable energy research and development equipment is purchased. The total time of the qualifying period may not exceed 19 years."

Section 10. Section 15-70-522, MCA, is amended to read:

"15-70-522. Tax incentive for production of ethanol -- rules. (1) (a) If the ethanol was produced in Montana from Montana agricultural products, including Montana wood or wood products, or if the ethanol was produced from non-Montana agricultural products when Montana products are not available, there is a tax incentive payable to ethanol distributors for distilling ethanol that:

(i) is to be blended with gasoline for sale as ethanol-blended gasoline in Montana;

(ii) was exported from Montana to be blended with gasoline for sale as ethanol-blended gasoline; or

(iii) is to be used in the production of ethyl butyl ether for use in reformulated gasoline.

(b) Payment must be made by the department out of the amount collected under 15-70-204.

(2) Except as provided in subsections (3) and (4), the tax incentive on each gallon of ethanol distilled in accordance with subsection (1) is 20 cents a gallon for each gallon that is 100% produced from Montana products, with the amount of the tax incentive for each gallon reduced proportionately, based upon the amount of agricultural or wood products not produced in Montana that is used in the production of the ethanol. The tax incentive is available to a facility for the first 6 years from the date that the facility begins production. The facility shall file a business plan with the department at least 2 years before the estimated beginning date of production. After the initial business plan is filed, the facility shall provide the department with quarterly updates regarding

any changes to the business plan.

(3) Regardless of the ethanol tax incentive provided in subsection (2):

(a) the total payments made for the incentive under this part may not exceed $6 million in any consecutive 12-month period;

(b) a plant or facility is not eligible to receive the tax incentive unless the facility paid the standard prevailing rate of wages for heavy construction, as provided in ~~18-2-401(13)(a)~~ [section 2], during the construction phase; and

(c) an ethanol distributor is not eligible to receive the tax incentive unless at least:

(i) 20% Montana product is used to produce ethanol at the facility in the first year of production;

(ii) 25% Montana product is used to produce ethanol at the facility in the second year of production;

(iii) 35% Montana product is used to produce ethanol at the facility in the third year of production;

(iv) 45% Montana product is used to produce ethanol at the facility in the fourth year of production;

(v) 55% Montana product is used to produce ethanol at the facility in the fifth year of production; and

(vi) 65% Montana product is used to produce ethanol at the facility in the sixth year of production.

(4) (a) An ethanol distributor may not receive tax incentive payments under subsection (2) that exceed $2 million in any consecutive 12-month period. Subject to subsections (5) and (6), an ethanol distributor may receive tax incentive payments commencing the first quarter after a facility begins production. The distributor shall report its production to the department pursuant to 15-70-205.

(b) The distributor's report must include:

(i) the total number of gallons produced for the month;

(ii) the total amount of products purchased for the production of ethanol;

(iii) the percentage of the total amount of products purchased that are Montana products; and

(iv) other information that the department determines is necessary.

(5) (a) A plant shall apply for the incentive payment by submitting an application to the department when the plant has proof of commitment from lenders to finance the plant. Subject to subsection (5)(b), the department shall respond to the applicant with approval of the application within 45 days of receipt of the application, after confirming the lending commitment. Upon approval of the application, the department shall enter into a contract with the plant that ensures the state's commitment to pay incentive payments to qualifying ethanol plants.

(b) If the department is not able to confirm a lending commitment, the department shall deny the application.

(6) After the department has verified production, the application provisions of subsection (5) are met, and the plant owner presents proof of financing, the department shall begin payments of the ethanol tax incentives based on actual production according to the terms of subsections (2) and (4).

(7) The department shall adopt rules necessary to carry out the provisions of this section. The department shall coordinate and request information and input from the ethanol production industry as a part of the rulemaking process and shall follow the procedures provided in Title 2, chapter 4."

Section 11. Section 18-2-401, MCA, is amended to read:

"18-2-401. Definitions. Unless the context requires otherwise, in this part, the following definitions apply:

(1) (a) ~~A "bona~~ "Bona fide Montana resident ~~of Montana~~" ~~is a person~~ means an individual who, at the time of employment and immediately prior to the time of employment, has lived in this state in a manner and for a time that is sufficient to clearly justify the conclusion that the ~~person's~~ individual's past habitation in this state has been coupled with an intention to make ~~it the person's~~ this state the individual's home. ~~Persons~~

(b) Individuals who come to Montana solely in ~~pursuance~~ pursuit of ~~any~~ a contract or an agreement to perform labor may not be considered to be bona fide Montana residents ~~of Montana~~ within the meaning and for the purpose of this part.

(2) "Commissioner" means the commissioner of labor and industry provided for in 2-15-1701.

(3) (a) "Construction services" means work performed by an individual in building construction, heavy construction, highway construction, and remodeling work.

(b) The term does not include:

(i) engineering, superintendence, management, office, or clerical work on a public works contract; or

(ii) consulting contracts, contracts with commercial suppliers for goods and supplies, or contracts with professionals licensed under state law.

(4) "Contractor" means any individual, general contractor, subcontractor, firm, association, partnership, corporation, limited liability partnership, or limited liability company engaged in construction services.

(5) "Department" means the department of labor and industry provided for in 2-15-1701.

(6) "District" means a prevailing wage rate district established as provided in 18-2-411.

(7) "Employer" means any individual, firm, association, partnership, corporation, limited liability partnership, or limited liability company engaged in nonconstruction services.

~~(8) "Heavy and highway construction wage rates" means wage rates, including fringe benefits for health~~

~~and welfare and pension contributions, that meet the requirements of the Employee Retirement Income Security Act of 1974 and other bona fide programs approved by the United States department of labor and zone pay and travel allowance that are determined and established statewide for heavy and highway construction projects, such as alteration or repair of roads, streets, highways, alleys, runways, trails, parking areas, utility rights-of-way, staging yards located on or off the right-of-way, or new or reopened pits that produce aggregate, asphalt, concrete, or backfill when the pit does not normally sell to the general public.~~

(8) "Fringe benefits" means health, welfare, and pension contributions that meet the requirements of the Employee Retirement Income Security Act of 1974, 29 U.S.C. 1001, et seq., and other bona fide programs approved by the U.S. department of labor.

(9) "Nonconstruction services" means work performed by an individual, not including management, office, or clerical work, for:

(a) the maintenance of publicly owned buildings and facilities, including public highways, roads, streets, and alleys;

(b) custodial or security services for publicly owned buildings and facilities;

(c) grounds maintenance for publicly owned property;

(d) the operation of public drinking water supply, waste collection, and waste disposal systems;

(e) law enforcement, including janitors and prison guards;

(f) fire protection;

(g) public or school transportation driving;

(h) nursing, nurse's aid services, and medical laboratory technician services;

(i) material and mail handling;

(j) food service and cooking;

(k) motor vehicle and construction equipment repair and servicing; and

(l) appliance and office machine repair and servicing.

(10) "Project location" means the construction site where a public works project involving construction services is being built, installed, or otherwise improved or reclaimed, as specified on the project plans and specifications.

(11) (a) "Public works contract" means a contract for construction services let by the state, county, municipality, school district, or political subdivision or for nonconstruction services let by the state, county, municipality, or political subdivision in which the total cost of the contract is in excess of $25,000. The

nonconstruction services classification does not apply to any school district that at any time prior to April 27, 1999, contracted with a private contractor for the provision of nonconstruction services on behalf of the district.

(b) The term does not include contracts entered into by the department of public health and human services for the provision of human services.

(12) "Special circumstances" means all work performed at a facility that is built or developed for a specific Montana public works project and that is located in a prevailing wage district that contains the project location or that is located in a contiguous prevailing wage district.

(13) ~~(a)~~ "Standard prevailing rate of wages" or "standard prevailing wage" means the rates established as provided in:

(a) [section 1] for building construction services;

(b) [section 2] for heavy construction services and for highway construction services; and

(c) [section 3] for nonconstruction services.

~~(i) the heavy and highway construction wage rates applicable to heavy and highway construction projects; or~~

~~(ii) those wages, other than heavy and highway construction wages, including fringe benefits for health and welfare and pension contributions, that meet the requirements of the Employee Retirement Security Act of 1974 and other bona fide programs approved by the United States department of labor and travel allowance that are paid in the district by other contractors for work of a similar character performed in that district by each craft, classification, or type of worker needed to complete a contract under this part. In each district, the standard prevailing rate of wages must be computed by the department based on work performed by electrical contractors who are licensed under Title 37, chapter 68, master plumbers who are licensed under Title 37, chapter 69, part 3, and Montana contractors who are registered under Title 39, chapter 9, and whose work is performed according to commercial building codes. The contractor survey must include information pertaining to the number of skilled craftspersons employed in the employer's peak month of employment and the wages and benefits paid for each craft. In setting the prevailing wages from the survey for each craft, the department shall use the weighted average wage for each craft, except in those cases in which the survey shows that 50% of the craftspersons are receiving the same wage. When the survey shows that 50% of the craftspersons are receiving the same wage, that wage is the prevailing wage for that craft. The work performed must be work of a similar character to the work performed in the district unless the annual survey of construction contractors and the biennial survey of nonconstruction service employers in the district does not generate sufficient data. If the survey produces~~

~~insufficient data, the rate may be established by the use of other information or methods that the commissioner determines fairly establish the standard prevailing rate of wages. The commissioner shall establish by rule the method or methods by which the standard prevailing rate of wages is determined. The rules must establish a process for determining if there is insufficient data generated by the survey of employers in the district that requires the use of other methods of determining the standard prevailing rate of wages. The rules must identify the amount of data that constitutes insufficient data and require the commissioner of labor to use other methods of determining the standard prevailing rate of wages when insufficient data exists. The alternative methods of determining the prevailing rate of wages must provide for review and the incorporation of data from work of a similar character that is conducted as near as possible to the original district.~~

~~(b) When work of a similar character is not being performed in the district, the standard prevailing rate of wages, including fringe benefits for health and welfare and pension contributions, that meets the requirements of the Employee Retirement Security Act of 1974 and other bona fide programs approved by the United States department of labor and the rate of travel allowance must be those rates established by collective bargaining agreements in effect in the district for each craft, classification, or type of worker needed to complete the contract.~~

(14) "Work of a similar character" means work on private commercial projects as well as work on public projects."

Section 12. Section 18-2-402, MCA, is amended to read:

"18-2-402. Standard prevailing rate of wages. (1) The ~~Montana~~ commissioner ~~of labor~~ may determine the standard prevailing rate of wages applicable to public works contracts under this part. The commissioner shall ~~undertake to~~ keep and maintain copies of collective bargaining agreements and other information on which the rates are based.

(2) The provisions of this part do not apply in those instances ~~where~~ in which the standard prevailing rate of wages is determined ~~pursuant to~~ by federal law.

(3) ~~In no instances where~~ Whenever this part is applicable, ~~shall~~ the standard prevailing rate of ~~wage be determined to~~ wages may be equal to but not greater than the highest applicable rate of ~~wage~~ wages in the area for the particular work in question as negotiated under existing and current collective bargaining agreements."

Section 13. Section 18-2-403, MCA, is amended to read:

"18-2-403. Preference of Montana labor in public works -- wages -- tax-exempt project -- federal exception. (1) In every public works contract, there must be inserted in the bid specification and the public works contract a provision requiring the contractor to give preference to the employment of bona fide Montana residents ~~of Montana~~ in the performance of the work.

(2) All public works contracts for construction services under subsection (1), except those for heavy and highway construction, that are conducted at the project location or under special circumstances must contain a provision requiring the contractor to pay:

(a) the travel allowance that is in effect and applicable to the district in which the work is being performed; and

(b) the standard prevailing rate of wages, including fringe benefits ~~for health and welfare and pension contributions~~, that~~:~~

~~(i) meets the requirements of the Employee Retirement Income Security Act of 1974 and other bona fide programs approved by the United States department of labor; and~~

~~(ii)~~ is in effect and applicable to the district in which the work is being performed.

(3) In every public works contract for heavy and highway construction, there must be inserted a provision to require the contractor to pay the ~~heavy and highway construction~~ standard prevailing wage rates established statewide for heavy and highway construction services conducted at the project location or under special circumstances.

(4) Except as provided in subsection (5), all public works contracts for nonconstruction services under subsection (1) must contain a provision requiring the contractor to pay:

(a) the travel allowance that is in effect and applicable to the district in which the work is being performed; and

(b) the standard prevailing rate of wages, including fringe benefits ~~for health and welfare and pension contributions~~, that~~:~~

~~(i) meets the requirements of the Employee Retirement Income Security Act of 1974 and other bona fide programs approved by the United States department of labor; and~~

~~(ii)~~ is in effect and applicable to the district in which the work is being performed.

(5) An employer who, as a nonprofit organization providing individuals with vocational rehabilitation, performs a public works contract for nonconstruction services and who employs an individual whose earning capacity is impaired by a mental, emotional, or physical disability may pay the individual wages that are less than

the standard prevailing wage if the employer complies with the provisions of section 214(c) of the Fair Labor Standards Act of 1938, 29 U.S.C. 214 and 29 CFR, part 525, and the wages paid are equal to or above the minimum wage required in ~~39-3-404~~ 39-3-409.

(6) Transportation of goods, supplies, materials, and manufactured or fabricated items to or from the project location is not subject to payment of the standard prevailing rate of wages.

(7) A contract, other than a public works contract, let for a project costing more than $25,000 and financed from the proceeds of bonds issued under Title 17, chapter 5, part 15, or Title 90, chapter 5 or 7, must contain a provision requiring the contractor to pay the standard prevailing wage rate in effect and applicable to the district in which the work is being performed unless the contractor performing the work has entered into a collective bargaining agreement covering the work to be performed.

(8) A public works contract may not be let to any person, firm, association, or corporation refusing to execute an agreement with the provisions described in subsections (1) through (7) in it, provided that in public works contracts involving the expenditure of federal-aid funds, this part may not be enforced in a manner as to conflict with or be contrary to the federal statutes prescribing a labor preference to honorably discharged veterans of the armed forces and prohibiting as unlawful any other preference or discrimination among citizens of the United States.

(9) Failure to include the provisions required by 18-2-422 in a public works contract relieves the contractor from the contractor's obligation to pay the standard prevailing wage rate and places the obligation on the public contracting agency."

Section 14. Section 18-2-407, MCA, is amended to read:

"18-2-407. Forfeiture for failure to pay standard prevailing ~~wage~~ rate of wages. (1) Except as provided in 18-2-403, a contractor, subcontractor, or employer who pays workers or employees at less than the standard prevailing ~~wage~~ rate of wages as established under the public works contract shall forfeit to the department a penalty at a rate of up to 20% of the delinquent wages plus fringe benefits, attorney fees, audit fees, and court costs. Money collected by the department under this section must be deposited in the general fund. A contractor, subcontractor, or employer shall also forfeit to the employee the amount of wages owed plus $25 a day for each day that the employee was underpaid.

(2) Whenever it appears to the contracting agency or to the ~~Montana~~ commissioner ~~of labor and industry~~ that there is insufficient money due to the contractor or the employer under the terms of the contract to cover

penalties, the ~~Montana~~ commissioner ~~of labor and industry~~ may, within 90 days after the filing of notice of completion of the project and its acceptance by the contracting agency, maintain an action in district court to recover all penalties and forfeitures due. This part does not prevent the individual worker who has been underpaid or the commissioner ~~of labor and industry~~ on behalf of all the underpaid workers from maintaining an action for recovery of the wages due under the contract as provided in Title 39, chapter 3, part 2~~, except that appeal of the hearings officer's decision is made directly to district court rather than to the board of personnel appeals~~."

Section 15. Section 18-2-411, MCA, is amended to read:

"18-2-411. Creation of prevailing wage rate districts. (1) Without taking into consideration heavy construction services and highway construction services wage rates, the commissioner shall divide the state into ~~at least~~ not more than 10 prevailing wage rate districts for building construction services and nonconstruction services.

(2) In initially determining the districts, the commissioner ~~must~~ shall:

(a) follow the rulemaking procedures in the Montana Administrative Procedure Act; and

(b) publish the reasons supporting the creation of each district.

(3) A district boundary may not be changed except for good cause and in accordance with the rulemaking procedures in the Montana Administrative Procedure Act.

(4) The presence of collective bargaining agreements in a particular area may not be the sole basis for the creation of boundaries of a district, nor may the absence of collective bargaining agreements in a particular area be the sole basis for changing the boundaries of a district.

(5) For each prevailing wage rate district established under this section, the commissioner shall determine the standard prevailing rate of wages to be paid employees, as provided in ~~18-2-401 and 18-2-402~~ this part. The standard prevailing rate of wages for construction services, as determined by the commissioner in this subsection, must be used for calculating an apprentice's wage, as provided in 39-6-108."

Section 16. Section 18-2-412, MCA, is amended to read:

"18-2-412. Method for payment of standard prevailing wage. (1) To fulfill the obligation to pay the standard prevailing rate of wages under 18-2-403, a contractor or subcontractor may:

(a) pay the amount of fringe benefits and the basic hourly rate of pay that is part of the standard prevailing rate of wages directly to the worker or employee in cash;

(b) make an irrevocable contribution to a trustee or a third person pursuant to a fringe benefit fund, plan, or program that meets the requirements of the Employee Retirement Income Security Act of 1974 or that is a bona fide program approved by the ~~United States~~ U.S. department of labor; or

(c) make payments using any combination of methods set forth in subsections (1)(a) and (1)(b) so that the aggregate of payments and contributions is not less than the standard prevailing rate of wages, including fringe benefits ~~for health and welfare and pension contributions that meet the requirements of the Employee Retirement Income Security Act of 1974,~~ and travel~~, or other bona fide programs approved by the United States department of labor, that is~~ allowances, applicable to the district for the particular type of work being performed.

(2) The fringe benefit fund, plan, or program described in subsection (1)(b) must provide benefits to workers or employees for health care, pensions on retirement or death, life insurance, disability and sickness insurance, or bona fide programs that meet the requirements of the Employee Retirement Income Security Act of 1974 or that are approved by the ~~United States~~ U.S. department of labor.

(3) A private contractor or subcontractor shall file a copy of the fringe benefit fund, plan, or program described in subsection (2) with the department."

Section 17. Section 69-3-2005, MCA, is amended to read:

"69-3-2005. Procurement -- cost recovery -- reporting. (1) In meeting the requirements of this part, a public utility shall:

(a) conduct renewable energy solicitations under which the public utility offers to purchase renewable energy credits, either with or without the associated electricity, under contracts of at least 10 years in duration; and

(b) consider the importance of geographically diverse rural economic development when procuring renewable energy credits.

(2) A public utility that intends to enter into contracts of less than 10 years in duration shall demonstrate to the commission that these contracts will provide a lower long-term cost of meeting the standard established in 69-3-2004.

(3) (a) Contracts signed for projects located in Montana must require all contractors to give preference to the employment of bona fide Montana residents, as defined in 18-2-401, in the performance of the work on the projects if the Montana residents have substantially equal qualifications to those of nonresidents.

(b) Contracts signed for projects located in Montana must require all contractors to pay the standard

prevailing rate of wages for heavy construction, as provided in ~~18-2-401(13)(a)~~ [section 2], during the construction phase of the project.

(4) All contracts signed by a public utility to meet the requirements of this part are eligible for advanced approval under procedures established by the commission. Upon advanced approval by the commission, these contracts are eligible for cost recovery from ratepayers, except that nothing in this part limits the commission's ability to subsequently, in any future cost-recovery proceeding, inquire into the manner in which the public utility has managed the contract and to disallow cost recovery if the contract was not reasonably administered.

(5) A public utility or competitive electricity supplier shall submit renewable energy procurement plans to the commission in accordance with rules adopted by the commission. The plans must be submitted to the commission on or before:

~~(a) January 1, 2007, for the standard required in 69-3-2004(2);~~

~~(b) June 1, 2008, for the standard required in 69-3-2004(3);~~

~~(c)~~(a) June 1, 2013, for the standard required in 69-3-2004(4); and

~~(d)~~(b) any additional future dates as required by the commission.

(6) A public utility or competitive electricity supplier shall submit annual reports, in a format to be determined by the commission, demonstrating compliance with this part for each compliance year. The reports must be filed by March 1 of the year following the compliance year.

(7) For the purpose of implementing this part, the commission has regulatory authority over competitive electricity suppliers."

Section 18. Codification instruction. [Sections 1 through 5] are intended to be codified as an integral part of Title 18, chapter 2, part 4, and the provisions of Title 18, chapter 2, part 4, apply to [sections 1 through 5].

Section 19. Saving clause. [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

Section 20. Effective date. [This act] is effective July 1, 2009.

- END -

I hereby certify that the within bill,
SB 0308, originated in the Senate.

Secretary of the Senate

President of the Senate

Signed this _____ day
of _____, 2019.

Speaker of the House

Signed this _____ day
of _____, 2019.

SENATE BILL NO. 308

INTRODUCED BY KEANE, ANKNEY, BRUEGGEMAN, COHENOUR, COONEY, GEBHARDT, GLASER, HAMLETT, KLOCK, LASLOVICH, A. NOONAN, O'HARA, STAHL, VILLA, WILSON

AN ACT REVISING LAWS RELATED TO THE STANDARD PREVAILING RATE OF WAGES FOR PUBLIC WORKS CONTRACTS; PROVIDING FOR WAGE AND BENEFIT SURVEYS AND ALTERNATE METHODOLOGIES; SPECIFYING PAYMENT TERMS FOR APPRENTICES WORKING ON PUBLIC WORKS CONTRACTS; LIMITING TO 10 THE MAXIMUM NUMBER OF PREVAILING WAGE RATE DISTRICTS; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 15-6-157, 15-6-158, 15-6-159, 15-24-3111, 15-70-522, 18-2-401, 18-2-402, 18-2-403, 18-2-407, 18-2-411, 18-2-412, AND 69-3-2005, MCA; AND PROVIDING AN EFFECTIVE DATE.

GOVERNOR'S OFFICE OF BUDGET AND PROGRAM PLANNING

Fiscal Note 2011 Biennium

Bill #	SB0308	**Title:**	Revise calculation of standard prevailing wage rates
Primary Sponsor:	Keane, Jim	**Status:**	As Introduced

☐ Significant Local Gov Impact ☑ Needs to be included in HB 2 ☑ Technical Concerns

☐ Included in the Executive Budget ☐ Significant Long-Term Impacts ☐ Dedicated Revenue Form Attached

FISCAL SUMMARY

	FY 2010 Difference	FY 2011 Difference	FY 2012 Difference	FY 2013 Difference
Expenditures:				
General Fund	$0	$0	$0	$0
Revenue:				
General Fund	$0	$0	$0	$0
Net Impact-General Fund Balance:	$0	$0	$0	$0

Description of fiscal impact: SB 308 will have no fiscal impact on the state.

FISCAL ANALYSIS

Assumptions:

Montana Department of Transportation (MDT)

1. Wage increases would be built in to contractor bid prices. To the extent that contractor bid prices would increase, there may be an offsetting reduction in available resources dedicated to other construction projects due to the finite amount available resources the department has for these projects.

Department of Environmental Quality (DEQ)

2. DEQ rarely has public works contracts that exceed 30 months in duration.
3. Currently, DEQ contracts are fixed price contracts based on the applicable prevailing wage at the time the contract is executed. For those few contracts that will exceed the 30-month threshold in the future, section 4 of the bill would require bidders to account for the increase in prevailing wage costs in the amount bid. The amount that this would increase the cost of the bid and the contract price is unquantifiable and not significant.

Department of Administration (DOA)

4. This bill has no fiscal impact to General Services Division/Facilities Management.
5. The bill provides for refinement and clarity in how MT DOLI surveys and calculates the standard rate of prevailing wages for workers for building, heavy, highway, and non-construction services.

6. The Architecture and Engineering (A&E) Division does not anticipate a fiscal impact for two reasons:
    a. While A&E's present longest duration project is 26 months, any project duration longer than 30 months would have any wage increase absorbed within the bid price; and,
    b. New Section 5, Sub (3) places the responsibility for the increase on the contractors and subcontractors.

Department of Revenue (DOR)

7. This bill changes the calculation of the prevailing wage rate and, for property taxation purposes, makes the definitions of class 14, 15 and 16 property consistent with the new prevailing wage rate definitions.
8. The department relies on the Department of Labor and Industry to certify that the prevailing wage rate was paid during the construction of class 14, class 15, and class 16 property. The department only needs to know that the prevailing wage rates were paid, whatever they may be.

Sponsor's Initials	*Date*	*Budget Director's Initials*	*Date*

MINUTES

MONTANA SENATE
61st LEGISLATURE - REGULAR SESSION

COMMITTEE ON BUSINESS, LABOR, AND ECONOMIC AFFAIRS

Call to Order: Chairman Joe Balyeat, on February 3, 2009 at 10 A.M., in Room 422 Capitol.

ROLL CALL

Members Present:

Sen. Joe Balyeat, Chairman (R)
Sen. Verdell Jackson, Vice Chairman (R)
Sen. Gregory D. Barkus (R)
Sen. Roy Brown (R)
Sen. Jim Keane (D)
Sen. Carolyn Squires (D)
Sen. Donald J. Steinbeisser (R)
Sen. Sharon Stewart-Peregoy (D)
Sen. Joseph (Joe) Tropila (D)
Sen. Jonathan Windy Boy (D)

Members Excused: Sen. Jim Peterson (R)

Members Absent: None.

Staff Present: Linda Keim, Committee Secretary
Pat Murdo, Legislative Branch

Audio Committees: These minutes are in outline form only. They provide a list of participants and a record of official action taken by the committee. The link to the audio recording of the meeting is available on the Legislative Branch website.

Committee Business Summary:

Hearing & Date Posted:	SB 295, SB 308, 1/28/2009
Executive Action:	SB 242, SJ 16, and SB 142: Discussion only

HEARING ON SB 308

Opening Statement by Sponsor:

00:01:23 Sen. Jim Keane (D), SD 38, opened the hearing on SB 308, Revise calculation of standard prevailing wage rates.

Proponents' Testimony:

00:04:09 Steve Wade, Montana Contractors Association
00:05:56 Bob Nommenson, CFO, Treasurer, Sletten Construction
EXHIBIT(bus25a01)

00:09:01 J. D. Lynch, Montana State Building Trade Unions
00:09:27 Cynthia Johnson, Past President, Montana Association of Counties (MACo)
00:10:01 Carl Schweitzer, Montana Sub-Contractors Association
00:11:01 Margaret Morgan, Greater Montana Independent Electrical Contractors
00:11:44 Keith Allen, International Brotherhood of Electrical Workers, Local #233
00:12:11 Jerry Keck, Administrator, Employee Relations Division, Department of Labor and Industry (DOLI)

Opponents' Testimony: None

Informational Testimony:

00:13:00 Russ Katherman, Architecture and Engineering Division, Department of Administration (DOA)

Questions from Committee Members and Responses:

00:13:24 Sen. Tropila
00:13:31 Sen. Keane
00:13:46 Sen. Squires
00:15:55 Sen. Keane
00:16:13 Chairman Balyeat
00:29:49 Jerry Keck
00:29:59 Sen. Squires
00:32:21 Bob Nommenson
00:34:11 Sen. Squires
00:34:30 J. D. Lynch
00:35:03 Chairman Balyeat
00:36:29 Mr. Nommenson

Closing by Sponsor:

00:38:06 Sen. Keane

HEARING ON SB 295

Opening Statement by Sponsor:

00:41:13 Sen. Jim Keane (D), SD 38, opened the hearing on SB 295, Allow legislators to retire from public employment while serving in the Legislature.

EXHIBIT(bus25a02)

Proponents' Testimony: None

Opponents' Testimony:

00:46:36 Roxanne Minnehan, Executive Director, Montana Public Employment Division

Informational Testimony: None

Questions from Committee Members and Responses:

00:53:04 Sen. Barkus
00:56:17 Sen. Keane
00:57:07 Sen. Squires
01:00:40 Kim Flatow, Public Employees Retirement System (PERS)
01:01:15 Chairman Balyeat
01:02:02 Sen. Jackson
01:03:33 Roxanne Minnehan
01:03:54 Chairman Balyeat
01:04:52 Roxanne Minnehan
01:05:00 Chairman Balyeat
01:07:17 Kim Flatow
01:07:27 Chairman Balyeat
01:10:07 Roxanne Minnehan
01:10:26 Sen. Tropila
01:10:40 Roxanne Minnehan
01:10:56 Sen. Tropila
01:10:59 Kim Flatow

Closing by Sponsor:

01:11:51 Sen. Keane

01:13:39 Chairman Balyeat

EXECUTIVE ACTION ON SB 242

01:15:41 **Motion**: Chairman Balyeat moved **SB 242 DO PASS.**

01:16:08 **Motion**: Chairman Balyeat moved **TO AMEND.**
EXHIBIT(bus25a03)

Discussion:

01:18:47 Sen. Keane
01:18:49 Sen. Steinbeisser
01:19:05 Chairman Balyeat
01:20:03 Pat Murdo, Legislative Fiscal Division
01:20:41 Chairman Balyeat
01:21:19 Sen. Keane
01:21:45 Sen. Squires
01:22:03 Chairman Balyeat
01:22:18 Sen. Squires
01:22:59 Chairman Balyeat

01:23:11 **Vote**: Motion carried by 6-5 roll call vote. Sen. Keane, Sen. Squires, Sen. Stewart-Peregoy, Sen. Tropila, and Sen. Windy Boy voted no. Sen. Barkus, Sen. Peterson, and Sen. Windy Boy voted by proxy.

01:24:31 **Motion**: Chairman Balyeat moved **SB 242 DO PASS AS AMENDED.**

01:24:43 **Vote**: Motion carried by 6-5 roll call vote. Sen. Keane, Sen. Squires, Sen. Stewart-Peregoy, Sen. Tropila, and Sen. Windy Boy voted no. Sen. Barkus, Sen. Peterson, and Sen. Windy Boy voted by proxy.

EXECUTIVE ACTION ON SJ 16

01:26:09 **Motion**: Sen. Brown moved **SJ 16 DO PASS.**

01:26:34 **Motion**: Sen. Keane moved **TO AMEND.**
EXHIBIT(bus25a04)

Discussion:

01:27:51 Sen. Squires
01:28:02 Sen. Keane

01:28:09 **Vote**: Motion carried unanimously 11-0 by voice vote. Sen. Barkus, Sen. Peterson, and Sen. Windy Boy voted by proxy.

01:28:15 Sen. Barkus arrived.

01:28:33 **Motion/Vote**: Sen. Brown moved **SJ 16 DO PASS AS AMENDED**. Motion carried 10-1 by voice vote. Sen. Balyeat voted no. Sen. Peterson and Sen. Windy Boy voted by proxy.

EXECUTIVE ACTION ON SB 142

01:29:40 **Motion**: Sen. Barkus moved **SB 142 DO PASS**.
EXHIBIT(bus25a05)
EXHIBIT(bus25a06)

Discussion:

01:30:14 Sen. Brown
01:30:41 Pat Murdo
01:31:32 Sen. Squires
01:32:22 Chairman Balyeat
01:33:54 Sen. Squires
01:34:06 Chairman Balyeat
01:34:19 Sen. Squires
01:35:02 Sen. Keanes

01:35:45 Sen. Barkus withdrew the motion.

01:36:01 Chairman Balyeat

ADJOURNMENT

Adjournment: 11:40 A.M.

_____
Linda Keim, Secretary

lk

Additional Documents:

EXHIBIT(bus25aad.pdf)

BUSINESS & LABOR
EXHIBIT NO. 1
DATE 2-3-09
BILL NO. SB 308

• Prevailing Wage Roster SB308

- Bob Nommenson (Sletten Construction)- bnommenson@sletteninc.com
- Kathy Smith (Dick Anderson Construction)- kathy@daconstruction.com
- Marvin Wilson (Liberty Electric)- marvin.wilson@libertyelectricinc.com
- Ric Tenneson (Tri County Mechanical)- ric@tcmemt.com
- Margaret Morgan (Independent Electrical Contractors)- mgtmorgan@qwest.net

- Kim Rickard (AFL-CIO)- kimr@montanalaborers.com
- Jim McGarvey (AFL-CIO)- jmcgarvey@unions-america.com
- Jason Miller (Montana Democratic Party)- jmhelena@gmail.com
- John Forkan (MT State Building Trades)- lu41bm@uanet.org
- Larry Mayo (MT State Building Trades)- local112@qwestoffice.net
- Cary Hegreberg (MCA)- Cary@mtagc.org
- Keith Allen (IBEW233)- ibew233@bresnan.net
- Bill Bentley (NECA)- mtnecac@mt.net
-
- Brad Sanders (Dept. of Administration)
- Tom O Connell (Dept. of Administration)
- Russ Katherman (Dept. of Admin. Architecture and Engineering)

- Harold Blattie (MACO) hblattie@maco.cog.mt.us
- Bob Vogel (Mt. School Board Association) Bvogel@mtsba.org
- Carl Schweitzer (Subcontractors) Carl@mt.net

MINUTES

MONTANA SENATE
61st LEGISLATURE - REGULAR SESSION

COMMITTEE ON BUSINESS, LABOR, AND ECONOMIC AFFAIRS

Call to Order: Chairman Joe Balyeat, on February 9, 2009 at 9 A.M., in Room 422 Capitol.

ROLL CALL

Members Present:

Sen. Joe Balyeat, Chairman (R)
Sen. Verdell Jackson, Vice Chairman (R)
Sen. Roy Brown (R)
Sen. Jim Keane (D)
Sen. Carolyn Squires (D)
Sen. Donald J. Steinbeisser (R)
Sen. Sharon Stewart-Peregoy (D)
Sen. Joseph (Joe) Tropila (D)

Members Excused: Sen. Gregory D. Barkus (R)
Sen. Jim Peterson (R)
Sen. Jonathan Windy Boy (D)

Members Absent: None.

Staff Present: Linda Keim, Committee Secretary
Pat Murdo, Legislative Branch

Audio Committees: These minutes are in outline form only. They provide a list of participants and a record of official action taken by the committee. The link to the audio recording of the meeting is available on the Legislative Branch website.

Committee Business Summary:

Hearing & Date Posted: SB 287, 2/2/2009

Executive Action: SJ 10, SB 269, SB 308, SB 295

EXECUTIVE ACTION ON SJ 10

00:01:39 **Motion**: Sen. Tropila moved **SJ 10 DO PASS.**

Discussion

00:02:05 Pat Murdo

00:02:52 **Motion**: Sen. Tropila moved **TO AMEND SJ 10.**
EXHIBIT(bus30a01)

Discussion:

00:03:00 Sen. Brown

00:03:30 **Vote**: Motion carried unanimously 8-0 by voice vote by those present in the room.

00:03:42 **Motion**: Sen. Brown moved **SJ 10 DO PASS AS AMENDED.**

Discussion:

00:04:05 Sen. Steinbeisser

00:04:40 **Vote**: Motion carried 10-1 by voice vote. Sen. Steinbeisser voted no. Sen. Windy Boy, Sen. Peterson, and Sen. Barkus voted by proxy.

EXECUTIVE ACTION ON SB 192

00:05:51 **Motion**: Sen. Squires moved **SB 192 DO PASS.**

Discussion:

00:06:03 Pat Murdo

00:06:45 Sen. Squires withdrew the motion.

EXECUTIVE ACTION ON SB 269

00:07:45 Sen. Brown moved **SB 269 DO PASS.**

00:08:13 Sen. Brown moved **TO AMEND SB 269.**
EXHIBIT(bus30a02)

00:08:30 Sen. Barkus arrived.

Discussion:

00:08:35 Sen. Brown
00:08:41 Pat Murdo
00:11:57 Sen. Squires
00:12:18 Pat Murdo
00:12:54 Sen. Squires
00:13:09 Chairman Balyeat
00:13:33 Sen. Brown
00:13:39 Sen. Barkus
00:14:10 Pat Murdo
00:16:23 Sen. Brown
00:17:04 Pat Murdo
00:17:31 Sen. Barkus

00:18:10 **Vote**: Motion carried unanimously, 11-0. Sen. Windy Boy and Sen. Peterson voted by proxy.

00:18:31 **Motion/Vote**: Sen. Brown moved **SB 269 DO PASS AS AMENDED**. Motion carried unanimously 11-0 by voice vote. Sen. Windy Boy and Sen. Peterson voted by proxy.

EXECUTIVE ACTION ON SB 295

00:19:14 **Motion**: Sen. Keane moved **SB 295 DO PASS.**

Discussion:

00:20:09 Chairman Balyeat

00:20:28 **Motion**: Chairman Balyeat moved **TO AMEND SB 295.**
EXHIBIT(bus30a03)

Discussion:

00:21:55 Pat Murdo

00:22:24 **Vote**: Motion carried unanimously 11-0 by voice vote. Sen. Peterson and Sen. Windy Boy voted by proxy.

00:22:52 Sen. Keane moved **SB 295 DO PASS AS AMENDED.**

Discussion:
00:23:34 Sen. Keane
00:24:40 Sen. Barkus
00:25:53 Chairman Balyeat
00:26:29 Sen. Keane
00:26:56 Chairman Balyeat
00:27:43 Sen. Keane

00:27:47 Chairman Balyeat
00:27:54 Sen. Keane
00:28:08 Pat Murdo
00:28:28 Chairman Balyeat
00:29:18 Sen. Tropila
00:29:35 Pat Murdo
00:29:54 Sen. Tropila
00:30:08 Chairman Balyeat

00:30:13 **Vote**: Motion failed 5-6 by roll call vote. Sen. Keane, Sen. Squires, Sen. Stewart-Peregoy, Sen. Tropila, and Sen. Windy Boy voted aye. Sen. Peterson and Sen. Windy Boy voted by proxy.

Discussion:

00:32:51 Sen. Tropila
00:32:59 Pat Murdo
00:33:03 Sen. Keane
00:33:43 Chairman Balyeat

00:33:50 **Motion/Vote**: Sen. Brown moved **TO TABLE SB 295 AS AMENDED**. Motion carried 7-4 by roll call vote. Sen. Keane, Sen. Squires, Sen. Stewart-Peregoy and Sen. Windy Boy voted no. Sen. Peterson and Sen. Windy Boy voted by proxy.

EXECUTIVE ACTION ON SB 308

00:35:48 Sen. Keane moved **SB 308 DO PASS**.

Discussion:

00:36:03 Sen. Keane
00:36:43 Sen. Squires
00:36:52 Chairman Balyeat
00:39:50 Sen. Keane
00:40:57 Chairman Balyeat
00:42:40 Sen. Keane

00:43:25 **Vote**: Motion carried 9-2 by roll call vote. Sen. Steinbeisser and Sen. Balyeat voted no. Sen. Peterson and Sen. Windy Boy voted by proxy.

00:45:22 Recess
00:56:36 Reconvene

Note: Rep. Windy Boy was present when meeting reconvened.
Note: Vice Chairman Jackson took over as Chairman.

HEARING ON SB 287

Opening Statement by Sponsor:

00:56:54 Sen. Joe Balyeat (R), SD 34, opened the hearing on SB 287, Consumer health freedom and access act.
EXHIBIT(bus30a04)
EXHIBIT(bus30a05)

Proponents' Testimony:

01:08:46 Debra Kimmet, Legislative Liaison for Montana Health Freedom Coalition
01:17:17 Linda Peterson, self, Polson
01:21:20 Robin Klein, Adjunct Instructor, Department of Plant Sciences, Montana State University (MSU)
01:22:20 Jena Silva, speaking for Jeannette Cheney, Wellness Education Center
EXHIBIT(bus30a06)

01:27:50 Kristen Hill, herbalist, Bozeman
01:28:31 Bill Hunger, massage therapist, Kalispell
01:30:32 Linda Oyama, self
01:31:43 Ellen Bench, classical homeopath, Missoula
EXHIBIT(bus30a07)

01:36:44 Bonnie Mickelson, Reflexologist, Columbia Falls
01:38:04 Robert W. Personette, massage and reflexology
01:39:28 Juliette Bouma, Stevensville
01:40:42 Jennifer Daly, Chinese medicine practitioner
01:41:42 Sen. Jonathan Windy Boy, SD 16, Box Elder
01:42:53 Linda Fahl, massage therapist, Helena
01:43:22 Ashley Finch, self

Opponents' Testimony:

01:44:20 Nancy Aagenes, naturopathic physician and acupuncturist, member of Alternative Health Care Board
EXHIBIT(bus30a08)

01:49:32 Pat Bollinger, nutritionist, representing Montana Board of Medical Examiners (MBME)
EXHIBIT(bus30a09)

01:51:25 Scott Hansing, Montana Board of Chiropractors
01:52:40 Dr. Dean Center, family doctor
01:56:35 Dianne Allen, Licensed Physical Therapist in Home Health, Montana Physical Therapy Association
EXHIBIT(bus30a10)

02:00:45 Linda Lemire, massage therapist
02:03:02 Erin MacLean, Montana Medical Association (MMA)
02:07:34 Jane Hamman, Montana Association of Acupuncture and Oriental Medicine (MAAOM)
02:09:05 Joanna Doub, naturopathic physician and traditional Chinese medicine practitioner
02:10:22 Cathleen Kuras, massage therapist
02:11:37 Wade Sikorski, self
02:12:08 Nicole Methot, massage therapist, Associated Body Massage Therapists (ABMT), Missoula

Informational Testimony:

02:13:51 Gene Allison, Deputy Chief Counsel, Business Standards Division, Department of Labor (DOLI)

Questions from Committee Members and Responses:

02:14:37 Sen. Brown
02:15:02 Debra Kimmet
02:18:41 Sen. Brown
02:19:14 Pat Bollinger
02:19:48 Sen. Brown
02:19:52 Jane Branscum, Executive Director, MBME
02:20:50 Sen. Barkus
02:21:05 Nancy Aagenes
02:21:39 Sen. Barkus
02:23:09 Dr. Center
02:23:21 Sen. Barkus
02:23:45 Joanna Doub
02:26:10 Sen. Barkus
02:26:31 Debra Kimmet
02:28:00 Sen. Windy Boy
02:28:40 Ellen Bench
02:30:23 Sen. Windy Boy
02:30:54 Sen. Balyeat
02:34:21 Sen. Windy Boy
02:35:23 Debra Kimmet
02:37:01 Sen. Keane
02:37:14 Ellen Bench
02:37:33 Sen. Keane
02:37:39 Debra Kimmet
02:38:32 Sen. Keane
02:39:22 Erin MacLean

Closing by Sponsor:

02:40:36 Sen. Balyeat

02:53:54 Sen. Jackson

ADJOURNMENT

Adjournment: 12:02 P.M.

_____
Linda Keim, Secretary

lk

EXHIBIT(bus30a11) Pertains to SB 287 in answer to a committee request for information from Deborah Kimmet.

EXHIBIT(bus30a12) Pertains to SB 287 received after the hearing.

Additional Documents:

EXHIBIT(bus30aad.pdf)

SENATE JOURNAL
61ST LEGISLATURE
THIRTY-THIRD LEGISLATIVE DAY

Helena, Montana — Senate Chambers
February 12, 2009 — State Capitol

Senate convened at 1:00 p.m. President Story presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present. Quorum present.

BILLS AND JOURNALS: 2/12/2009

Correctly printed: **SB 124**, **SB 229**, **SB 273**, **SB 294**, **SB 309**, **SB 319**, **SB 429**, **SB 430**, **SB 431**, **SB 432**, **SB 433**, **SB 434**, **SB 435**, **SB 436**, **SB 437**, **SB 438**, **SB 439**, **SB 440**, **SB 441**, **SB 442**, **SB 443**, **SB 444**, **SB 445**, **SB 446**, **SJR 10**.
Correctly engrossed: **SB 94**, **SB 150**, **SB 167**, **SB 244**, **SB 280**, **SB 283**, **SB 343**.

REPORTS OF STANDING COMMITTEES

FINANCE AND CLAIMS (Bales, Chairman): 2/12/2009
SB 21, do pass. Report adopted.
SB 119, introduced bill, be amended as follows:

1. Title, page 1, line 5.
Strike: "ALLOWING"
Insert: "REQUIRING"

2. Page 1, line 12.
Following: "(1)"
Strike: "Subject to available"
Insert: "If"
Following: "appropriations"
Insert: "specific for this purpose are provided by the legislature"

3. Page 1, line 13.
Following: "plan"
Insert: "is secured"
Following: "department"
Strike: "may"
Insert: "shall"

4. Page 6, line 13.
Following: "(11)"
Strike: "The"
Insert: "Subject to the limitation in [section 1], the"
Following: "department"
Strike: "may"
Insert: "shall"

And, as amended, do pass. Report adopted.

SB 224, do pass. Report adopted.

NATURAL RESOURCES (Gebhardt, Chairman): 2/12/2009
SB 100, introduced bill, be amended as follows:

1. Title, page 1, line 6.
Strike: "AND"
Insert: ","
Following: the second "DATE"
Insert: ", AND A TERMINATION DATE"

2. Page 2, line 4.
Strike: "10%"
Insert: "5.8%"

3. Page 3, line 16.
Strike: "10%"
Insert: "5.8%"

4. Page 3, line 27.
Insert: "NEW SECTION. **Section 4. Termination.** [This act] terminates September 30, 2013."

And, as amended, do pass. Report adopted.

PUBLIC HEALTH, WELFARE AND SAFETY (Brown, Chairman): 2/12/2009
SB 51, introduced bill, be amended as follows:

1. Title, page 1, line 5.
Strike: "ADOPTING A POLICY"

2. Title, page 1, line 6.
Strike: "PROVIDERS"
Insert: "PRACTITIONERS"
Following: "PATIENTS;"
Insert: "AND"

3. Title, page 1, line 7.
Strike: "PROVIDERS"
Insert: "PRACTITIONERS"

4. Title, page 1, lines 7 and 8.
Following: "OF"
Strike: remainder of line 7 through "PROVIDERS" on line 8
Insert: "ANY FINANCIAL INTEREST ASSOCIATED WITH A REFERRAL"

5. Page 1, line 12 through page 3, line 3.
Strike: everything after the enacting clause
Insert: "NEW SECTION. **Section 1. Patient information -- disclosure required when making referrals -- definitions.** (1) It is public policy of the state of Montana that a patient receives from a health care practitioner information that allows the patient to make informed decisions not only relating to the patient's medical conditions

but also to the financial or quality aspects of the patient's health care decisions.

(2) A health care practitioner who has a financial interest in an entity that provides diagnostic services or therapeutic services or who receives compensation or remuneration for referral of the patient to an entity that provides diagnostic services or therapeutic services shall disclose the interest to a patient prior to referring the patient for diagnostic services or therapeutic services.

(a) The information must be disclosed on a written referral to each patient at the time of referral or, if referred by phone, verbal disclosure must be made at the time of referral and a written referral must be promptly sent to the patient.

(b) The referral must contain the following notice written conspicuously on its face:

"During the course of your relationship with this health care practitioner, you may be referred to another health care provider or health care facility in which the practitioner has an investment, employment, or contractual interest. You have the freedom to choose among health care providers and health care facilities."

(3) Subsection (2) applies to an entity that provides diagnostic services and therapeutic services within a hospital even though the entity is not owned by the hospital.

(4) (a) Except as provided in subsection (4)(b), this section does not apply to a patient receiving emergency care or to a patient admitted to a hospital or critical access hospital.

(b) Upon discharge, the inpatient or outpatient must be provided with the disclosure and referral information contained in subsection (2).

(5) Failure to provide disclosure of a financial interest may result in a $100 penalty assessed by the department. The department shall report the violation to the appropriate licensing board.

(6) For the purposes of this section, the following definitions apply:

(a) "Department" means the department of public health and human services provided for in 2-15-2201.

(b) "Diagnostic services" means providing any test to determine or identify the nature of a disease, including laboratory and exploratory tests.

(c) "Financial interest" means that the health care practitioner or a partner or employee of the practitioner directly or indirectly holds through business or investment an ownership, contractual, or employment interest in or with another health care practitioner, health care facility, or other person or entity that is the beneficiary of the referral.

(d) "Health care facility" has the meaning provided in 50-5-101.

(e) "Health care practitioner" means an individual licensed by the department of labor and industry who has assessment, admission, and prescription authority.

(f) "Health care provider" has the meaning provided in 50-4-504.

(g) "Therapeutic services" means physical therapy, radiation therapy, and rehabilitation services, including physical therapy, occupational therapy, speech pathology, and any combination of those services."

Insert: "NEW SECTION. **Section 2. Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 50, chapter 4, and the provisions of Title 50, chapter 4, apply to [section 1].
"

And, as amended, do pass. Report adopted.

SB 271, introduced bill, be amended as follows:

1. Title, page 1, lines 5 and 6.
Strike: "RENAMING" on line 5 through "COUNSELORS;" on line 6

2. Title, page 1, line 9.
Strike: "SECTIONS 2-15-1744, 37-22-102,"
Insert: "SECTION"
Strike: "AND 37-23-102,"

3. Page 1, line 14 through line 26.
Strike: section 1 in its entirety
Renumber: subsequent sections

4. Page 1, line 30.
Strike: "2 through 6"
Insert: "1 through 5"

5. Page 2, line 1.
Strike: "2 through 6"
Insert: "1 through 5"

6. Page 2, line 6.
Strike: "2 through 6"
Insert: "1 through 5"

7. Page 2, line 8.
Strike: ",marriage and family therapists,"

8. Page 2, line 11.
Strike: "2 through 6"
Insert: "1 through 5"

9. Page 3, line 19.
Strike: "2 through 6"
Insert: "1 through 5"

10. Page 4, line 4.
Strike: "2 through 6"
Insert: "1 through 5"

11. Page 4, line 13.
Strike: "2 through 6"
Insert: "1 through 5"

12. Page 4, line 21.
Strike: "2 through 6"
Insert: "1 through 5"

13. Page 4, line 23.
Strike: "2 through 6"
Insert: "1 through 5"

14. Page 4, line 24.
Strike: "2 through 6"
Insert: "1 through 5"

15. Page 4, line 29 through page 5, line 19.
Strike: section 7 in its entirety
Renumber: subsequent sections

16. Page 5, lines 23 and 24.
Strike: "2" on line 23 through "6" on line 24
Insert: "1 through 5"

17. Page 5, line 26.
Strike: "2 through 6"
Insert: "1 through 5"

18. Page 5, line 30.
Strike: "2 through 6"
Insert: "1 through 5"

19. Page 6, line 5 through line 28.
Strike: section 9 in its entirety
Renumber: subsequent sections

20. Page 6, line 30.
Strike: "2 through 6"
Insert: "1 through 5"

21. Page 7, line 1.
Strike: "2 through 6"
Insert: "1 through 5"

And, as amended, do pass. Report adopted.

STATE ADMINISTRATION (Shockley, Chairman): 2/12/2009
SB 241, introduced bill, be amended as follows:

1. Title, page 1, line 8.
Following: ";"
Insert: "PROVIDING A FUNDING RESTRICTION; AMENDING SECTION 2-17-521, MCA;"

2. Page 1, line 17.
Strike: "department"
Insert: "division"

3. Page 1, line 27 through line 28.
Strike: line 27 through line 28 in their entirety
Insert: "(3) "Division" means the legislative fiscal division established in 5-12-301.
Renumber: subsequent subsections

4. Page 2, line 26.
Strike: "director"
Insert: "legislative fiscal analyst"

5. Page 2, line 28.
Strike: "(7)"
Insert: "(6)"

6. Page 3, line 1.
Following: "(1)"
Insert: "The legislative fiscal analyst, based on guidance from the advisory council, is responsible for establishing and maintaining a searchable budget database website in accordance with the provisions of [sections 1 through 5]."

7. Page 3, line 2.
Strike: "department"
Insert: "division"
Following: "develop"
Insert: "and establish"
Strike: "a"
Insert: "an initial basic"

8. Page 3, line 4.
Strike: "director"
Insert: "legislative fiscal analyst"

9. Page 3, line 6.
Strike: "director"
Insert: "legislative fiscal analyst"

10. Page 3, line 9.
Following: "shall"
Insert: "cooperate with the division and advisory council and"
Strike: "department"
Insert: "division"

11. Page 3, line 11.
Strike: "department"
Insert: "division"
Following: "section"
Insert: ", including recommendations on how an agency's existing information technology capabilities and future information technology project development may be integrated with or otherwise support the searchable budget database website"

12. Page 3, line 12.
Strike: "department"
Insert: "division"

13. Page 3, line 17.
Strike: "The director shall appoint a"
Insert: "(1) There is a seven-member"

14. Page 3, line 18.
Following: "feedback"
Insert: "to the legislative fiscal analyst and the division"

15. Page 3, line 19 through line 20.
Following: "website." on line 19
Insert: "(2) Members of the advisory council must be as follows:

(a) the senate committee on committees shall appoint one senator and one person representing advocates for transparency in government;

(b) the speaker of the house shall appoint one representative and one person representing advocates for transparency in government;

(c) the legislative finance committee shall appoint a person to represent the division;

(d) the governor shall appoint a person from the governor's budget office; and

(e) the chief information officer appointed by the department of administration pursuant to Title 2, chapter 17, part 5, is an ex-officio voting member.

(3)"
Strike: "shall" on line 19 through "that" on line 20

16. Page 3.
Following: line 21
Insert: "NEW SECTION. **Section 6. Funding restriction.** Funding for the purposes of [sections 1 through 5] may not exceed a total amount equal to $275,000 in each fiscal year, but the total may be provided as a biennial appropriation."
Insert: "Section 7. Section 2-17-521, MCA, is amended to read:

"2-17-521. State strategic information technology plan -- biennial report. (1) The department shall prepare a state strategic information technology plan. The department shall seek the advice of the board in the development of the plan.

(2) The plan must:

(a) reflect the policies as set forth in 2-17-505 and be in accordance with statewide standards and policies established by the department;

(b) establish the statewide mission, goals, and objectives for the use of information technology, including goals for electronic access to government records, information, and services; ~~and~~

(c) establish the strategic direction for how state agencies will develop and use information technology resources to provide state government services; and

(d) consider how agency information technology resources and project development may support the goals of [sections 1 through 5].

(3) The department shall update the plan as necessary. The plan and any updates must be distributed as provided in 2-17-522.

(4) The department shall prepare a biennial report on information technology based on agency information technology plans and performance reports required under 2-17-524 and other information considered appropriate by the department. The biennial report must include:

(a) an analysis of the state's information technology infrastructure, including its value, condition, and capacity;

(b) an evaluation of performance relating to information technology;

(c) an assessment of progress made toward implementing the state strategic information technology plan;

(d) an inventory of state information services, equipment, and proprietary software;

(e) agency budget requests for major projects; and

(f) other information as determined by the department or requested by the governor or the legislature.""
Renumber: subsequent sections

17. Page 3, line 24.
Strike: the first "17"
Insert: "5"
Strike: the first "1"
Insert: "12"
Strike: the second "17"
Insert: "5"
Strike: the second "1"
Insert: "12"

And, as amended, do pass. Report adopted.

TAXATION (Essmann, Chairman): 2/12/2009
SB 265, do pass. Report adopted.

MESSAGES FROM THE GOVERNOR

February 10, 2009

The Honorable Robert Story
President of the Senate
State Capitol
Helena, Montana 59620

Dear Senator Story:

Please be informed that I have signed **Senate Bill 7** sponsored by Senator Gebhardt, **Senate Bill 10** sponsored by Senator Perry, and **Senate Bill 11** sponsored by Senator J. Peterson on February 10, 2009.

Sincerely,

BRIAN SCHWEITZER
Governor

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence: 2/11/2009

HB 82, introduced by Driscoll
HB 128, introduced by Sesso
HB 172, introduced by Arntzen
HB 228, introduced by Kerns
HB 287, introduced by Driscoll
HB 298, introduced by Blewett
HB 337, introduced by Blewett
HB 354, introduced by Glaser

FIRST READING AND COMMITMENT OF BILLS

The following Senate bills were introduced, read first time, and referred to committees:

SB 447, introduced by Moss, Shockley, referred to Judiciary.
SB 448, introduced by Keane, referred to Local Government.
SB 449, introduced by Keane, referred to Energy and Telecommunications.
SB 450, introduced by Keane, referred to Education and Cultural Resources.
SB 451, introduced by Wanzenried, R. Brown, Branae, Moss, Squires, Essmann, Blasdel, Glaser, O'Hara, referred to Natural Resources.
SB 452, introduced by Curtiss, Gebhardt, referred to Finance and Claims.
SB 453, introduced by Curtiss, Erickson, Hinkle, Murphy, Zinke, Perry, Jackson, Gebhardt, Debby Barrett, Shockley, referred to Agriculture, Livestock and Irrigation.
SB 454, introduced by R. Brown, referred to Judiciary.
SB 455, introduced by Hinkle,Curtiss, Black, Jackson, Balyeat, Bennett, McGillvray, Mendenhall, Reichner, Regier, Arntzen, Hendrick, Boniek, Randall, Miller, Kerns, Morgan, Taylor, referred to Taxation.
SB 456, introduced by Juneau, Augare, Belcourt, Calf Boss Ribs, Pease-Lopez, referred to Taxation.
SB 457, introduced by Branae, referred to Highways and Transportation.
SB 458, introduced by Barkus, Berry, referred to Public Health, Welfare and Safety.
SB 459, introduced by Erickson, Branae, Kaufmann, Juneau, Williams, McAlpin, referred to Taxation.
SB 460, introduced by Story, Zinke, J. Peterson, R. Brown, Barkus, McGee, Bales, Laible, Hinkle, Brenden, Black, Esp, Tutvedt, Brueggeman, Gebhardt, Lewis, Shockley, Kerns, Sales, McGillvray, Kasten, Hollandsworth, D. Brown, Mendenhall, referred to Finance and Claims.
SB 461, introduced by Brueggeman, Belcourt, referred to Natural Resources.
SJR 26, introduced by Juneau, Augare, Belcourt, Calf Boss Ribs, Pease-Lopez, Campbell, referred to Public Health, Welfare and Safety.

SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)

Senator Peterson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Brueggeman in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 73 - Senator Hawks moved **SB 73** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator McGee in the chair.

SB 95 - Senator Brueggeman moved **SB 95** do pass. Motion carried as follows:
Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator Brueggeman in the chair.

SB 120 - Senator Zinke moved **SB 120** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Schmidt, Squires, Steinbeisser, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 47

Nays: Ripley, Shockley, Stewart-Peregoy.
Total 3

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator Peterson moved **SB 216** be passed for the day. Motion carried.

SB 296 - Senator Essmann moved **SB 296** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt,

Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 299 - Senator J. Tropila moved **SB 299** do pass. Motion carried as follows:

Yeas: Branae, Brueggeman, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Lewis, Murphy, Perry, Schmidt, Shockley, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke.
Total 29

Nays: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Laslovich, McGee, Moss, Peterson, Ripley, Steinbeisser, Mr. President.
Total 21

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 308 - Senator Keane moved **SB 308** do pass. Motion carried as follows:

Yeas: Barkus, Branae, R. Brown, T. Brown, Brueggeman, Cooney, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke.
Total 33

Nays: Bales, Balyeat, Barrett, Black, Brenden, Curtiss, Esp, Hinkle, Jackson, Laible, McGee, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Mr. President.
Total 17

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 325 - Senator Perry moved **SB 325** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau,

Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator Peterson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Story in the chair. Chairman Brueggeman moved the Committee of the Whole report be adopted. Report adopted unanimously.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 124 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 229 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Zinke, Mr. President.
Total 27

Nays: Branae, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy.
Total 23

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 268 passed as follows:

Yeas: Branae, R. Brown, T. Brown, Brueggeman, Cooney, Erickson, Essmann, Gallus, Gillan, Hamlett, Hawks, Jent, Juneau, Kaufmann, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Schmidt, Shockley, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Zinke.
Total 29

Nays: Bales, Balyeat, Barkus, Barrett, Black, Brenden, Curtiss, Esp, Gebhardt, Hansen, Hinkle, Jackson, Keane, Murphy, Perry, Peterson, Ripley, Steinbeisser, Tutvedt, Windy Boy, Mr. President.
Total 21

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 273 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 48

Nays: Juneau, Stewart-Peregoy.
Total 2

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 294 passed as follows:

Yeas: Bales, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 43

Nays: Balyeat, Barkus, Barrett, Esp, Hinkle, McGee, Shockley.
Total 7

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SJR 10 passed as follows:

Yeas: Bales, Balyeat, Barrett, Black, Branae, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Schmidt, Shockley, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 40

Nays: Barkus, Brenden, Esp, Gebhardt, Hinkle, Keane, McGee, Ripley, Steinbeisser, Tutvedt.
Total 10

Absent or not voting: None.
Total 0

Excused: None.
Total 0

MOTIONS

Senator Gallus moved that his vote on **SB 229** be changed from yes to no. Motion carried.

Senator Windy Boy moved that his vote on **SB 229** be changed from yes to no. Motion carried.

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Peterson moved that the Senate adjourn until 1:00 p.m., Friday, February 13, 2009. Motion carried.

Senate adjourned at 1:56 p.m.

MARILYN MILLER
Secretary of the Senate

ROBERT STORY
President of the Senate

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
61st LEGISLATURE - REGULAR SESSION

COMMITTEE ON BUSINESS AND LABOR

Call to Order: Chairman Bill Wilson, on March 13, 2009 at 8:30 A.M., in Room 172 Capitol

ROLL CALL

Members Present:

Rep. Bill Wilson, Chairman (D)
Rep. Bill Beck, Vice Chairman (R)
Rep. Michele Reinhart, Vice Chairman (D)
Rep. Elsie Arntzen (R)
Rep. Paul Beck (D)
Rep. Tom Berry (R)
Rep. John Fleming (D)
Rep. Timothy Furey (D)
Rep. Chuck Hunter (D)
Rep. Harry Klock (R)
Rep. Mike Milburn (R)
Rep. Pat Noonan (D)
Rep. Scott Reichner (R)
Rep. Cary Smith (R)
Rep. Gordon Vance (R)
Rep. Jeffery Welborn (R)

Members Excused: Rep. Shannon Augare (D)
Rep. Carlie Boland (D)

Members Absent: None

Staff Present: Santella Baglivo, Committee Secretary
Bart Campbell, Legislative Branch

Audio Committees: These minutes are in outline form only. They provide a list of participants and a record of official action taken by the committee. The link to the audio recording of the meeting is available on the Legislative Branch website.

Committee Business Summary:

Hearing & Date Posted: SB 308, 3/2/2009; SB 247, 3/2/2009
SB 395, 3/2/2009; SB 271, 3/2/2009

Executive Action: SB 395

HEARING ON SB 308

Opening Statement by Sponsor:

00:00:33 Sen. Jim Keane (D), SD 38, opened the hearing on SB 308, Revise calculation of standard prevailing wage rates.

Proponents' Testimony:

00:01:56 Bob Nommensen, Sletten Construction
00:04:20 Keith Allen, International Brotherhood of Teamsters, Local 233
00:08:11 CArl Schweitzer, Montana Subcontractors Association
00:09:18 Rick Tenneson
00:09:50 J.D. Lynch, Montana State Building Trades
00:10:07 Cary Hegreberg, Montana Contractors Association
00:11:30 Jerry Keck, Administrator, Employment Relations Division, Department of Labor and Industry (DLI)
00:16:52 Margaret Morgan, Greater Montana Independent Electrical Workers
00:17:11 Jason Miller, International Brotherhood of Teamsters

Opponents' Testimony: None

Informational Testimony:

00:17:50 Russ Katherman, Contract Officer, Architecture and Engineering Division, Department of Administration (DOA)

Questions from Committee Members and Responses:

00:18:25 Rep. Reichner
00:18:58 Rep. B. Beck
00:19:26 Mr. Keck
00:19:40 Rep. B. Beck
00:19:43 Mr. Keck
00:20:06 Rep. B. Beck
00:20:37 Mr. Keck
00:20:55 Rep. B. Beck

00:21:10 Mr. Keck
00:21:22 Rep. B. Beck
00:21:27 Rep. Hunter

Closing by Sponsor:

00:21:57 Sen. Keane

HEARING ON SB 395

Opening Statement by Sponsor:

00:23:53 Sen. Kelly Gebhardt (R), SD 23, opened the hearing on SB 395, Clarify beer franchise laws.

Proponents' Testimony:

00:25:33 Kristi Blazer, Montana Beer and Wine Distributors Association
00:33:12 Mark Taylor, Anheuser-Busch Company
00:33:54 Dan Dulle, Self, Kalispell, Montana
00:33:56 Rep. Hunter leaves.

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses: None

Closing by Sponsor:

00:34:57 Sen. Gebhardt

EXECUTIVE ACTION ON SB 395

00:35:52 **Motion**: Rep. Furey moved that **SB 395 BE CONCURRED IN.**

00:36:08 Rep. Berry calls the question.

00:36:13 **Vote**: Motion carried unanimously by voice vote, with Reps. Augare, Boland and Hunter voting by proxy.

HEARING ON SB 247

Opening Statement by Sponsor:

00:36:40 Sen. Jerry Black (R), SD 14, opened the hearing on SB 247, Reporting requirements for nonferrous metals.

Proponents' Testimony:

00:39:48 Gary Wiens, Montana Electric Cooperatives' Association
EXHIBIT (buh56a01)
00:46:12 Dan Flynn, International Brotherhood of Electrical Workers
00:46:51 Jeff Millhollin, Pacific Steel and Recycling
00:48:03 Merle Raph, Montana County Attorneys Association
00:51:16 Mike Pichette, Northwestern Energy
00:52:18 Bill Knick, Pacific Steel and Recycling
00:53:03 Tom Ebzery, Qwest Communications

Opponents' Testimony: None

Informational Testimony:

00:54:04 Gale Kuntz, Bonneville Power Administration

Questions from Committee Members and Responses:

00:56:50 Rep. Furey
00:57:06 Sen. Black
00:57:15 Rep. Furey
00:57:26 Sen. Black
00:57:46 Chairman Wilson
00:58:26 Mr. Wiens
00:58:49 Chairman Wilson
00:59:02 Mr. Wiens
00:59:11 Chairman Wilson
00:59:13 Rep. Welborn
00:59:31 Sen. Black
00:59:42 Rep. Arntzen
01:00:01 Mr. Wiens
01:00:30 Rep. Arntzen
01:01:08 Mr. Wiens
01:01:50 Chairman Wilson
01:02:05 Mr. Raph
01:02:25 Rep. B. Beck
01:02:35 Mr. Raph
01:03:07 Chairman Wilson
01:03:13 Sen. Black
01:03:27 Chairman Wilson
01:03:35 Mr. Campbell, Legislative Services Division
01:03:47 Chairman Wilson

Closing by Sponsor:

01:04:05 Sen. Black

HEARING ON SB 271

Opening Statement by Sponsor:

01:06:00 Sen. Trudi Schmidt, SD 11, opened the hearing on SB 271, Licensure and regulation for marriage and family therapists.

Proponents' Testimony:

01:09:32 Mark Odell, Montana Association of Marriage and Family Therapists
01:12:41 Mark Davies, Marriage and Family Therapist
01:16:46 Kristen Wright, Marriage and Family Therapist
01:18:04 Barbara Harrold, Counselor Educator
01:20:21 Carol McEvoy, Marriage and Family Therapist
EXHIBIT(buh56a02)
01:24:15 Carol Chisholm, Marriage and Family Therapist
01:29:58 Elaine Maronick, Marriage and Family Therapist
01:33:08 Aidan Myhre, Montana Association of Marriage and Family Therapists
EXHIBIT(buh56a03)

Opponents' Testimony:

01:36:16 David Segerstrom, Licenced Clinical Social Worker
01:40:45 Theresa Glenwaters, Licenced Clinical Social Worker
01:42:21 Rep. Hunter enters.
01:46:19 John Espy, Licenced Clinical Social Worker
01:47:51 Kimberly Gardner, Licenced Clinical Social Worker
EXHIBIT(buh56a04)
01:56:49 Mary McCue, National Association of Social Workers, Montana Chapter

Informational Testimony:

02:00:20 Marilyn Kelly-Clark, Licensing Specialists, Department of Labor and Industry

Questions from Committee Members and Responses:

02:00:41 Rep. B. Beck
02:01:29 Sen. Schmidt
02:02:05 Mr. Odell
02:02:15 Ms. Glenwater
02:02:40 Rep. B. Beck
02:03:11 Ms. Glenwater
02:03:57 Rep. B. Beck

02:04:47 Ms. Glenwater
02:05:46 Chairman Wilson
02:05:56 Ms. Glenwater
02:06:00 Chairman Wilson
02:06:01 Ms. Glenwater
02:06:14 Mr. Odell
02:06:35 Chairman Wilson
02:06:36 Mr. Odell
02:07:23 Chairman Wilson
02:07:29 Mr. Odell
02:07:49 Rep. P. Beck
02:08:21 Mr. Odell
02:08:49 Ms. Glenwater
02:09:09 Rep. P. Beck
02:09:33 Mr. Campbell
02:09:56 Rep. Welborn
02:11:00 Ms. Myhre
02:13:08 Rep. Welborn
02:13:47 Ms. Myhre
02:13:59 Rep. Smith
02:14:37 Ms. Wright
02:16:30 Rep. Smith
02:16:43 Ms. Wright
02:17:33 Rep. Smith
02:17:40 Ms. Wright
02:17:46 Rep. Smith
02:17:56 Ms. Wright
02:18:07 Rep. Smith
02:18:20 Ms. Maronick
02:18:52 Rep. Smith
02:19:03 Ms. Maronick
02:19:24 Ms. McEvoy
02:20:51 Chairman Wilson
02:21:02 Ms. McEvoy
02:24:50 Ms. Gardiner
02:26:01 Rep. Smith
02:26:23 Mr. Segerstrom
02:28:27 Rep. Noonan
02:29:09 Ms. Kelly-Clark

Closing by Sponsor:

02:29:48 Sen. Schmidt

ADJOURNMENT

02:32:57 Adjournment: 11:02 A.M.

_____
Santella Baglivo, Secretary

sb

Additional Documents:

EXHIBIT(buh56aad.pdf)

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
61st LEGISLATURE - REGULAR SESSION

COMMITTEE ON BUSINESS AND LABOR

Call to Order: Chairman Bill Wilson, on March 23, 2009 at 9:00 A.M., in Room 172 Capitol

ROLL CALL

Members Present:

Rep. Bill Wilson, Chairman (D)
Rep. Bill Beck, Vice Chairman (R)
Rep. Michele Reinhart, Vice Chairman (D)
Rep. Elsie Arntzen (R)
Rep. Shannon Augare (D)
Rep. Paul Beck (D)
Rep. Carlie Boland (D)
Rep. John Fleming (D)
Rep. Timothy Furey (D)
Rep. Chuck Hunter (D)
Rep. Harry Klock (R)
Rep. Mike Milburn (R)
Rep. Pat Noonan (D)
Rep. Cary Smith (R)
Rep. Gordon Vance (R)
Rep. Jeffery Welborn (R)

Members Excused: Rep. Tom Berry (R)
Rep. Scott Reichner (R)

Members Absent: None

Staff Present: Santella Baglivo, Committee Secretary
Bart Campbell, Legislative Branch

Audio Committees: These minutes are in outline form only. They provide a list of participants and a record of official action taken by the committee. The link to the audio recording of the meeting is available on the Legislative Branch website.

Committee Business Summary:

Hearing & Date Posted:	SB 176, 3/11/2009; SB 189, 3/11/2009; SB 444, 3/11/2009
Executive Action:	SB 189, SB 581, SB 127, SB 247, SJ 10, SB 308

HEARING ON SB 189

Opening Statement by Sponsor:

00:00:27 Sen. Joe Balyeat (R), SD 34, opened the hearing on SB 189, Revise consumer protection laws and settlement proceeds.
EXHIBIT(buh64a01)

Proponents' Testimony: None

Opponents' Testimony:

00:17:19 Ali Bovingdon, Assistant Attorney General, Department of Justice (DOJ)
EXHIBIT(buh64a02)
00:28:27 Cindy Stergar, Community Health Officer
00:31:46 Kathy McGowan, American Cancer Society
00:35:16 Mark Brennan, Montana Food Bank Network
00:40:35 Chris Heisel, Helena Food Share
EXHIBIT(buh64a03)

Informational Testimony:

00:43:05 Jim Gillett, Legislative Audit Division

Questions from Committee Members and Responses:

00:43:28 Rep. B. Beck
00:46:36 Ms. Bovingdon
00:47:31 Rep. B. Beck
00:47:38 Rep. Vance
00:48:17 Sen. Balyeat
00:48:34 Rep. Vance
00:48:46 Ms. Bovingdon
00:48:50 Rep. Vance
00:49:15 Ms. Bovingdon
00:49:31 Rep. Vance
00:49:47 Ms. Bovingdon

00:50:08 Rep. Vance
00:50:20 Ms. Bovingdon
00:50:29 Rep. Vance
00:50:37 Ms. Bovingdon
00:51:08 Rep. Reinhart
00:51:24 Ms. Bovingdon
00:52:03 Rep. Reinhart
00:52:15 Ms. Bovingdon
00:54:00 Rep. Reinhart
00:54:09 Ms. Bovingdon
00:54:21 Rep. Arntzen
00:54:39 Ms. Bovingdon
00:55:26 Rep. Arntzen
00:55:34 Ms. Bovingdon
00:56:00 Rep. Arntzen
00:56:10 Ms. Bovingdon
00:56:19 Rep. Arntzen
00:56:33 Sen. Balyeat
00:59:00 Rep. Arntzen
00:59:27 Mr. Brennan
00:59:30 Rep. Arntzen
00:59:40 Mr. Brennan
00:59:54 Rep. Arntzen
01:00:06 Mr. Brennan
01:00:18 Rep. Smith
01:00:39 Sen. Balyeat
01:01:07 Rep. Smith
01:01:27 Sen. Balyeat
01:01:41 Rep. Smith
01:01:58 Sen. Balyeat
01:02:46 Rep. Smith
01:02:56 Sen. Balyeat
01:03:07 Rep. Smith
01:03:19 Mr. Gillett
01:03:57 Rep. Reinhart
01:04:46 Sen. Balyeat
01:06:26 Rep. Reinhart
01:06:44 Sen. Balyeat
01:08:25 Chairman Wilson
01:08:49 Sen. Balyeat
01:09:21 Rep. Reinhart
01:09:55 Sen. Balyeat
01:11:05 Rep. Reinhart
01:11:38 Ms. Bovingdon
01:12:02 Rep. Reinhart
01:12:17 Ms. Bovingdon
01:12:55 Rep. Fleming
01:13:27 Ms. Bovingdon
01:14:42 Rep. Smith
01:15:06 Ms. Bovingdon

01:15:31 Rep. Smith
01:15:37 Ms. Bovingdon
01:15:46 Rep. Smith
01:15:50 Ms. Bovingdon
01:17:04 Rep. Smith
01:17:15 Ms. Bovingdon
01:17:49 Rep. Smith
01:18:19 Sen. Balyeat
01:18:41 Rep. Smith
01:19:04 Sen. Balyeat

Closing by Sponsor:

01:19:17 Sen. Balyeat

HEARING ON SB 444

Opening Statement by Sponsor:

01:26:30 Sen. Jesse Laslovich (D), SD 43, opened the hearing on SB 444, Revise prudent management of funds law.

Proponents' Testimony: None

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses: None

Closing by Sponsor:

01:29:41 Sen. Laslovich

01:30:05 Chairman Wilson calls a recess.
01:44:18 Chairman Wilson resumes hearing.

HEARING ON SB 176

Opening Statement by Sponsor:

01:44:30 Sen. Gary Perry (R), SD 35, opened the hearing on SB 176, Exempt persons executing surety bonds from CLE requirements.

Proponents' Testimony:

01:46:45 Scott Restvedt, Montana Bail Agents Association
EXHIBIT(buh64a04)

01:52:31 Chairman Wilson
01:52:36 Mr. Restvedt
01:52:44 John Olsen, Glacier Bail Bonds
01:53:05 Kelly Reisbeck, Self
01:53:39 Jacqueline Lenmark, American Insurance Association
01:57:09 Mourie Anderson, Anderson Bond Company
01:57:30 Dan McKinney, Anderson Bond Company
01:57:45 Dave Crow, Self
01:58:03 Earl Rowe, Self, Missoula, Montana
01:58:40 Billy Revell, Liberty Bonds
01:59:10 Bob Ryan, Anderson Bail Bond Company
01:59:35 Bruce Spencer, Property Casualty Insurers Association of America
01:59:45 Richard Wright, Central Montana Bail Bonds

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:

Closing by Sponsor:

02:00:11 Sen. Perry

EXECUTIVE ACTION ON SB 176

02:01:15 **Motion**: Rep. Reinhart moved that **SB 176 BE CONCURRED IN.**

02:01:24 **Motion**: Rep. Reinhart moved that **SB 176 BE AMENDED.** **EXHIBIT(buh64a05)**

Discussion:

02:01:32 Rep. Vance

02:01:42 **Vote**: Motion carried unanimously by voice vote.

02:01:46 **Motion**: Rep. Reinhart moved that **SB 176 BE CONCURRED IN AS AMENDED.**

02:01:54 Rep. Welborn called the question.

02:02:02 **Vote**: Motion carried unanimously by voice vote.

EXECUTIVE ACTION ON HB 581

02:02:35 **Motion**: Rep. Reinhart moved that **HB 581 DO PASS.**

02:02:57 Chairman Wilson called a recess.
02:06:34 Chairman Wilson resumed hearing.

02:07:20 **Substitute Motion/Vote**: Rep. Reinhart made a substitute motion that **HB 581 BE TABLED.** Substitute motion carried unanimously by voice vote.

EXECUTIVE ACTION ON SB 127

02:07:45 **Motion**: Rep. Reinhart moved that **SB 127 BE CONCURRED IN.**

Discussion:

02:08:28 Chairman Wilson
02:08:40 Rep. Noonan called the question.

02:08:55 **Vote**: Motion carried unanimously by voice vote. Reps. Berry and Reichner voted by proxy.

EXECUTIVE ACTION ON SB 247

02:09:54 **Motion**: Rep. Reinhart moved that **SB 247 BE CONCURRED IN.**

Discussion:

02:10:15 Rep. Arntzen
02:10:36 Chairman Wilson

02:10:41 **Motion**: Rep. B. Beck moved that **SB 247 BE AMENDED.** **EXHIBIT(buh64a06)**

Discussion:

02:12:12 Mr. Campbell, Legislative Services Division
02:12:30 Rep. B. Beck
02:12:40 Chairman Wilson
02:13:02 Rep. Welborn

02:13:17 **Vote**: Motion carried unanimously by voice vote.

02:13:28 **Motion**: Rep. Reinhart moved that **SB 247 BE CONCURRED IN AS AMENDED.**

02:13:36 **Vote**: Motion carried unanimously by voice vote.

Discussion:

02:14:08 Rep. P. Beck
02:14:27 Rep. B. Beck
02:14:41 Rep. P. Beck

EXECUTIVE ACTION ON SJ 10

02:15:16 **Motion**: Rep. Reichner moved that **SJ 10 BE CONCURRED IN.**

Discussion:

02:15:26 Rep. B. Beck
02:16:09 Rep. Reinhart
02:16:45 Chairman Wilson
02:16:46 Rep. B. Beck
02:16:59 Chairman Wilson
02:17:32 Rep. Hunter
02:18:31 Chairman Wilson
02:18:39 Rep. Milburn
02:19:19 Rep. Reinhart
02:19:51 Rep. Arntzen
02:20:08 Rep. Reinhart
02:20:16 Rep. Arntzen
02:20:31 Chairman Wilson
02:20:44 Rep. Reinhart
02:21:23 Rep. Smith
02:21:37 Rep. Augare called the question.

02:21:50 **Vote**: Motion failed 9-9 by roll call vote with Rep. Augare, Rep. P. Beck, Rep. Boland, Rep. Fleming, Rep. Furey, Rep. Hunter, Rep. Noonan, Rep. Reinhart, and Rep. Wilson voting aye. Reps. Berry and Reichner voted by proxy.

EXECUTIVE ACTION ON SB 308

02:22:51 **Motion**: Rep. Reinhart moved that **SB 308 BE CONCURRED IN.**

Discussion:

02:23:35 Rep. Hunter
02:24:23 Rep. Milburn
02:24:43 Rep. Klock called the question.

02:24:50 **Vote**: Motion carried unanimously by voice vote. Reps. Berry and Reichner voted by proxy.

Discussion:

02:25:41 Rep. Arntzen
02:25:55 Rep. Milburn

ADJOURNMENT

02:26:14 Adjournment: 10:56 A.M.

_____
Santella Baglivo, Secretary

sb

Additional Exhibits
EXHIBIT(buh64a07) Letter from Dr. Bob Bakko re: SB 235
EXHIBIT(buh64a08) Spreadsheet re: SB 235

Additional Documents:

EXHIBIT(buh64aad.pdf)

HOUSE JOURNAL
61ST LEGISLATURE
SEVENTY-SECOND LEGISLATIVE DAY

Helena, Montana — House Chambers
April 1, 2009 — State Capitol

House convened at 11:30 a.m. Mr. Speaker in the Chair. Invocation by Rep. Pease-Lopez. Pledge of Allegiance to the Flag.

Roll Call. All members present. Quorum present.

REPORTS OF STANDING COMMITTEES

APPROPRIATIONS (Sesso, Chairman): 4/1/2009
HB 677, introduced bill, be amended as follows:

1. Page 4, line 15 through line 17.
Strike: section 5 in its entirety
Renumber: subsequent section

And, as amended, do pass. Report adopted.

FISH, WILDLIFE AND PARKS (Van Dyk, Chairman): 4/1/2009
SB 32, be amended as follows:

1. Title, line 6.
Strike: "AND A LICENSED PHYSICAL THERAPIST"

2. Page 3, line 9.
Strike: "A LICENSED PHYSICAL THERAPIST,"

3. Page 3, line 13.
Strike: "A LICENSED PHYSICAL THERAPIST,"

4. Page 3, line 17.
Strike: "A LICENSED PHYSICAL THERAPIST,"

And, as amended, be concurred in. Report adopted.

MESSAGES FROM THE SENATE

Senate bills passed and transmitted to the House for concurrence: 4/1/2009

SB 490, introduced by R. Brown
SB 507, introduced by Story
SB 508, introduced by Brueggeman

House bills concurred in and returned to the House: 4/1/2009

HB 98, introduced by Di. Barrett
HB 116, introduced by McNutt
HB 263, introduced by Smith
HB 264, introduced by Smith

HB 357, introduced by Berry
HB 451, introduced by Ebinger
HB 495, introduced by Arntzen
HB 513, introduced by Cohenour
HB 529, introduced by Jones
HB 572, introduced by Pomnichowski

SB 48 - The Senate acceded to the request of the House and authorized the President to appoint the following **Free** Conference Committee to meet with a like committee from the House to confer on **SB 48:**

4/1/2009

Senator Esp, Chair
Senator Gillan
Senator Tutvedt

House bills concurred in as amended and returned to the House for concurrence in Senate amendments:

4/1/2009

HB 218, introduced by Menahan
HB 443, introduced by Menahan
HB 591, introduced by Pease-Lopez

House joint resolution concurred in as amended and returned to the House for concurrence in Senate amendments:

4/1/2009

HJR 33, introduced by Bergren

MESSAGES FROM THE GOVERNOR

April 1, 2009

The Honorable Bob Bergren
Speaker of the House
State Capitol
Helena, Montana 59620

The Honorable Robert Story
President of the Senate
State Capitol
Helena, Montana 59620

Dear Speaker Bergren and President Story:

In accordance with the power vested in me as Governor by the Constitution and laws of the State of Montana, I hereby return with amendments House Bill 322, "**AN ACT REQUIRING A PERSON NOMINATED OR APPOINTED AS A NEUTRAL ARBITRATOR TO DISCLOSE A CONFLICT OF INTEREST; PROVIDING FOR VACATING AN AWARD BECAUSE OF A FAILURE TO DISCLOSE A CONFLICT OF INTEREST; AND AMENDING SECTIONS 27-5-211 AND 27-5-312, MCA**" for the following reasons.

I have proposed these amendments at the request of the bill's sponsor, Representative Blewett. House Bill 322 establishes disclosure requi4rements for arbitrators. My amendments cover three technical areas. First, they clarify that it is the arbitrator that must comply with the requirements, not the arbitration agreement. Second, they correct

what appears to have been an error in an amendment that was placed on the bill in the legislative process, so as to indicate that the disclosure requirements of subsection (4)(d) of section 1 of the bill apply to "neutral" arbitrators, not to "party" arbitrators, whose disclosure requirements are contained in subsection (4)(c) of section 1. Finally, it was always the intent of the bill that its disclosure requirements apply to arbitrators who have been proposed. The sponsor recently learned, however, of a court decision distinguishing "proposed" arbitrators from "nominated" arbitrators. Therefore, my amendments indicate that the disclosure requirements apply not only to "nominated and appointed" arbitrators, but to "proposed" arbitrators,"as well.

Sincerely,

BRIAN SCHWEITZER
Governor

GOVERNOR'S AMENDMENTS
TO HOUSE BILL 322

1. Title, line 4.
Following: "PERSON"
Insert: "PROPOSED,"
Following: "NOMINATED"
Insert: ","

2. Page 1, lines 13 and 14.
Following: "(2)" on line 13
Insert: "Beginning October 1, 2009, a person who has been proposed, nominated, or appointed as a neutral arbitrator pursuant to an"
Following: "bargaining agreement" on line 13
Insert: remainder of line 13 through "2009," on line 14.

3. Page 1, line 15
Following: "been"
Insert: "proposed,"
Following: "nominated"
Insert: ","

4. Page 1, line 18.
Following: "person"
Insert: "proposed,"
Following: "nominated"
Insert: ","

5. Page 2, line 12.
Strike: "A PARTY ARBITRATOR AND NOT"

6. Page 2, line 13.
Following: "ARBITRATOR"
Strike: remainder of line 13 in its entirety

7. Page 3, line 3.
Following: "person"
Insert: "proposed,"
Following: "nominated"
Insert: ","

8. Page 3, line 5.
Following: line 4
Insert: "proposal,"
Following: "nomination"
Insert: ","

Rep. Phillips announced that the House Democrats will caucus for 15 minutes.
Rep. Mendenhall announced that the House Republicans will stand at ease.
Mr. Speaker announced that the House will recess until 12:00 p.m.
The House came to order at 12:07 p.m.

FIRST READING AND COMMITMENT OF BILLS

The following House joint resolution was introduced, read first time, and referred to committee:

HJR 35, introduced by Himmelberger, referred to State Administration.

The following Senate bills were introduced, read first time, and referred to committees:

SB 490, introduced by R. Brown, referred to Taxation.
SB 507, introduced by Story, referred to Taxation.
SB 508, introduced by Brueggeman, Sonju, Sesso, Vance, Laslovich, MacLaren, Hollenbaugh, Barkus,, referred to Transportation.

SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)

Majority Leader Campbell moved the House resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Representative Wiseman in the chair.

Mr. Speaker: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 62 - Representative Cohenour moved **SB 62** be concurred in. Motion carried as follows:

Yeas: Ankney, Arntzen, Augare, Barrett, Bean, B. Beck, P. Beck, Becker, Belcourt, Bennett, Berry, Blasdel, Blewett, Boland, Boniek, Boss Ribs, Brown, Butcher, Caferro, Campbell, Cohenour, Dickenson, Driscoll, Ebinger, Fleming, French, Furey, Getz, Glaser, Grinde, Hamilton, Hands, Hawk, Hendrick, Henry, Himmelberger, Hiner, Hollandsworth, Hollenbaugh, Hoven, Howard, Hunter, Ingraham, Jones, Jopek, Kasten, Kerns, Klock, Kottel, Lake, MacDonald, MacLaren, Malek, McAlpin, McChesney, McClafferty, McGillvray, McNutt, Mehlhoff, Menahan, Mendenhall, Milburn, Miller, More, Morgan, A. Noonan, P. Noonan, Nooney, O'Hara, Pease-Lopez, Peterson, Phillips, Randall, Regier, Reichner, Reinhart, Roberts, Roundstone, Sales, Sands, Sesso, Smith, Sonju, Stahl, Steenson, Stoker, Taylor, Vance, Van Dyk, Villa, Vincent, Warburton, Washburn, Welborn, Wilmer, Wilson,

Wiseman, Mr. Speaker.
Total 98

Nays: Wagner.
Total 1

Excused: None.
Total 0

Absent or not voting: Pomnichowski.
Total 1

SB 71 - Representative Hands moved **SB 71** be concurred in. Motion carried as follows:

Yeas: Ankney, Arntzen, Augare, Barrett, Bean, B. Beck, P. Beck, Becker, Belcourt, Bennett, Berry, Blasdel, Blewett, Boland, Boniek, Boss Ribs, Brown, Butcher, Caferro, Campbell, Cohenour, Dickenson, Driscoll, Ebinger, Fleming, French, Furey, Getz, Glaser, Grinde, Hamilton, Hands, Hendrick, Henry, Himmelberger, Hollandsworth, Hollenbaugh, Hoven, Howard, Hunter, Ingraham, Jones, Jopek, Kerns, Klock, Kottel, MacDonald, MacLaren, Malek, McAlpin, McChesney, McClafferty, McGillvray, McNutt, Mehlhoff, Menahan, Mendenhall, Milburn, Miller, More, Morgan, A. Noonan, P. Noonan, Nooney, O'Hara, Pease-Lopez, Peterson, Phillips, Pomnichowski, Randall, Regier, Reichner, Reinhart, Roberts, Roundstone, Sales, Sands, Sesso, Smith, Stahl, Steenson, Stoker, Taylor, Vance, Van Dyk, Villa, Vincent, Wagner, Warburton, Washburn, Welborn, Wilmer, Wilson, Wiseman, Mr. Speaker.
Total 95

Nays: Hawk, Kasten, Lake.
Total 3

Excused: None.
Total 0

Absent or not voting: Hiner, Sonju.
Total 2

SB 76 - Representative Hollandsworth moved **SB 76** be concurred in. Motion carried as follows:

Yeas: Ankney, Arntzen, Augare, Barrett, Bean, B. Beck, P. Beck, Becker, Belcourt, Bennett, Berry, Blasdel, Blewett, Boland, Boniek, Boss Ribs, Brown, Butcher, Caferro, Campbell, Cohenour, Dickenson, Driscoll, Ebinger, Fleming, French, Furey, Getz, Glaser, Grinde, Hamilton, Hands, Hawk, Hendrick, Henry, Hiner, Hollandsworth, Hollenbaugh, Hoven, Howard, Hunter, Ingraham, Jones, Jopek, Kasten, Kerns, Klock, Kottel, Lake, MacDonald, MacLaren, Malek, McAlpin, McChesney, McClafferty, McGillvray, McNutt, Mehlhoff, Menahan, Milburn, Miller, More, Morgan, A. Noonan, P. Noonan, Nooney, O'Hara, Pease-Lopez, Peterson, Phillips, Pomnichowski, Randall, Regier, Reichner, Reinhart, Roberts, Roundstone, Sales, Sands, Sesso, Smith, Sonju, Stahl, Steenson, Stoker, Taylor, Vance, Van Dyk, Villa, Vincent, Wagner, Warburton, Washburn, Welborn, Wilmer, Wilson, Wiseman, Mr. Speaker.
Total 98

Nays: Himmelberger, Mendenhall.
Total 2

Excused: None.

Total 0

Absent or not voting: None.
Total 0

SB 84 - Representative Hiner moved **SB 84** be concurred in. Motion carried as follows:

Yeas: Ankney, Arntzen, Augare, Barrett, Bean, B. Beck, P. Beck, Becker, Belcourt, Bennett, Berry, Blasdel, Blewett, Boland, Boniek, Boss Ribs, Brown, Butcher, Caferro, Campbell, Cohenour, Dickenson, Driscoll, Ebinger, Fleming, French, Furey, Getz, Glaser, Grinde, Hamilton, Hands, Hawk, Hendrick, Henry, Himmelberger, Hiner, Hollandsworth, Hollenbaugh, Hoven, Hunter, Ingraham, Jones, Jopek, Kasten, Kerns, Klock, Kottel, Lake, MacDonald, MacLaren, Malek, McAlpin, McChesney, McClafferty, McGillvray, McNutt, Mehlhoff, Menahan, Milburn, Miller, Morgan, A. Noonan, P. Noonan, Nooney, O'Hara, Pease-Lopez, Peterson, Phillips, Pomnichowski, Randall, Regier, Reichner, Reinhart, Roberts, Roundstone, Sales, Sands, Sesso, Smith, Sonju, Steenson, Stoker, Taylor, Vance, Van Dyk, Villa, Vincent, Wagner, Warburton, Washburn, Welborn, Wilmer, Wiseman, Mr. Speaker.
Total 95

Nays: Howard, Mendenhall, More, Stahl.
Total 4

Excused: None.
Total 0

Absent or not voting: Wilson.
Total 1

SB 124 - Representative Ingraham moved **SB 124** be concurred in. Motion carried as follows:

Yeas: Ankney, Arntzen, Augare, Barrett, Bean, B. Beck, P. Beck, Becker, Belcourt, Bennett, Berry, Blasdel, Blewett, Boland, Boniek, Boss Ribs, Brown, Butcher, Caferro, Campbell, Cohenour, Dickenson, Driscoll, Ebinger, Fleming, French, Furey, Getz, Glaser, Grinde, Hamilton, Hands, Hawk, Hendrick, Henry, Himmelberger, Hiner, Hollandsworth, Hollenbaugh, Hoven, Howard, Hunter, Ingraham, Jones, Jopek, Kasten, Kerns, Klock, Kottel, Lake, MacDonald, MacLaren, Malek, McAlpin, McChesney, McClafferty, McGillvray, McNutt, Mehlhoff, Menahan, Mendenhall, Milburn, Miller, More, Morgan, A. Noonan, P. Noonan, Nooney, O'Hara, Pease-Lopez, Peterson, Phillips, Pomnichowski, Randall, Regier, Reichner, Reinhart, Roberts, Roundstone, Sales, Sands, Sesso, Smith, Sonju, Stahl, Steenson, Stoker, Taylor, Vance, Van Dyk, Villa, Vincent, Wagner, Warburton, Washburn, Welborn, Wilmer, Wilson, Wiseman, Mr. Speaker.
Total 100

Nays: None.
Total 0

Excused: None.
Total 0

Absent or not voting: None.
Total 0

SB 126 - Representative Taylor moved **SB 126** be concurred in. Motion carried as follows:

Yeas: Ankney, Arntzen, Augare, Barrett, Bean, B. Beck, P. Beck, Becker, Belcourt, Bennett, Berry, Blasdel,

Blewett, Boland, Boniek, Boss Ribs, Brown, Butcher, Caferro, Campbell, Cohenour, Dickenson, Driscoll, Ebinger, Fleming, French, Furey, Getz, Glaser, Grinde, Hamilton, Hands, Hawk, Hendrick, Henry, Himmelberger, Hiner, Hollandsworth, Hollenbaugh, Hoven, Howard, Hunter, Ingraham, Jones, Jopek, Kasten, Kerns, Klock, Kottel, Lake, MacDonald, MacLaren, Malek, McAlpin, McChesney, McClafferty, McGillvray, McNutt, Mehlhoff, Menahan, Mendenhall, Milburn, Miller, More, Morgan, A. Noonan, P. Noonan, Nooney, O'Hara, Pease-Lopez, Peterson, Phillips, Pomnichowski, Randall, Regier, Reichner, Reinhart, Roberts, Roundstone, Sales, Sands, Sesso, Smith, Sonju, Stahl, Steenson, Stoker, Taylor, Vance, Van Dyk, Villa, Vincent, Wagner, Warburton, Washburn, Wilmer, Wilson, Wiseman, Mr. Speaker.
Total 99

Nays: Welborn.
Total 1

Excused: None.
Total 0

Absent or not voting: None.
Total 0

SB 127 - Representative P. Noonan moved **SB 127** be concurred in. Motion carried as follows:

Yeas: Ankney, Augare, Barrett, Bean, B. Beck, P. Beck, Becker, Belcourt, Bennett, Blasdel, Blewett, Boland, Boss Ribs, Brown, Butcher, Caferro, Campbell, Cohenour, Dickenson, Driscoll, Ebinger, Fleming, French, Furey, Getz, Glaser, Grinde, Hamilton, Hands, Hawk, Hendrick, Henry, Himmelberger, Hiner, Hollandsworth, Hollenbaugh, Hoven, Howard, Hunter, Ingraham, Jones, Jopek, Kasten, Klock, Kottel, Lake, MacDonald, MacLaren, Malek, McAlpin, McChesney, McClafferty, McGillvray, McNutt, Mehlhoff, Menahan, Milburn, Miller, Morgan, A. Noonan, P. Noonan, Nooney, O'Hara, Pease-Lopez, Peterson, Phillips, Pomnichowski, Randall, Reichner, Reinhart, Roberts, Roundstone, Sands, Sesso, Smith, Sonju, Steenson, Stoker, Taylor, Vance, Van Dyk, Villa, Warburton, Washburn, Welborn, Wilmer, Wilson, Wiseman, Mr. Speaker.
Total 89

Nays: Berry, Boniek, Kerns, Mendenhall, More, Regier, Sales, Vincent, Wagner.
Total 9

Excused: None.
Total 0

Absent or not voting: Arntzen, Stahl.
Total 2

SB 136 - Representative Bennett moved **SB 136** be concurred in. Motion carried as follows:

Yeas: Ankney, Arntzen, Augare, Barrett, Bean, B. Beck, P. Beck, Becker, Belcourt, Bennett, Berry, Blasdel, Blewett, Boland, Boniek, Boss Ribs, Brown, Butcher, Caferro, Campbell, Cohenour, Dickenson, Driscoll, Ebinger, Fleming, French, Furey, Getz, Glaser, Grinde, Hamilton, Hands, Hawk, Hendrick, Henry, Hiner, Hollandsworth, Hollenbaugh, Hoven, Howard, Hunter, Ingraham, Jones, Jopek, Kasten, Kerns, Klock, Kottel, Lake, MacDonald, MacLaren, Malek, McAlpin, McChesney, McGillvray, McNutt, Mehlhoff, Menahan, Mendenhall, Milburn, Miller, More, Morgan, A. Noonan, P. Noonan, Nooney, O'Hara, Pease-Lopez, Peterson, Phillips, Pomnichowski, Randall, Regier, Reichner, Reinhart, Roberts, Roundstone, Sales, Sands, Sesso, Smith, Sonju, Stahl, Steenson, Stoker, Taylor, Vance, Van Dyk, Villa, Vincent, Wagner, Warburton, Washburn, Welborn, Wilmer, Wilson, Wiseman, Mr. Speaker.

Total 98

Nays: None.
Total 0

Excused: None.
Total 0

Absent or not voting: Himmelberger, McClafferty.
Total 2

SB 151 - Representative Furey moved **SB 151** be concurred in. Motion carried as follows:

Yeas: Ankney, Arntzen, Augare, Barrett, Bean, B. Beck, P. Beck, Becker, Belcourt, Bennett, Berry, Blasdel, Blewett, Boland, Boniek, Brown, Butcher, Caferro, Campbell, Cohenour, Dickenson, Driscoll, Ebinger, Fleming, French, Furey, Getz, Glaser, Grinde, Hamilton, Hands, Hawk, Hendrick, Henry, Hiner, Hollandsworth, Hollenbaugh, Hoven, Howard, Hunter, Ingraham, Jones, Jopek, Kasten, Kerns, Klock, Kottel, Lake, MacDonald, MacLaren, Malek, McAlpin, McChesney, McClafferty, McGillvray, McNutt, Mehlhoff, Menahan, Mendenhall, Milburn, Miller, More, Morgan, A. Noonan, P. Noonan, Nooney, O'Hara, Pease-Lopez, Peterson, Phillips, Pomnichowski, Randall, Regier, Reichner, Reinhart, Roberts, Roundstone, Sales, Sands, Sesso, Smith, Sonju, Stahl, Steenson, Taylor, Vance, Villa, Vincent, Wagner, Warburton, Washburn, Welborn, Wilmer, Wilson, Wiseman, Mr. Speaker.
Total 96

Nays: Stoker, Van Dyk.
Total 2

Excused: None.
Total 0

Absent or not voting: Boss Ribs, Himmelberger.
Total 2

SB 156 - Representative Ingraham moved **SB 156** be concurred in. Motion carried as follows:

Yeas: Ankney, Arntzen, Augare, Barrett, Bean, B. Beck, P. Beck, Becker, Belcourt, Bennett, Berry, Blasdel, Blewett, Boland, Boniek, Boss Ribs, Brown, Butcher, Caferro, Cohenour, Dickenson, Driscoll, Ebinger, Fleming, French, Furey, Getz, Glaser, Grinde, Hamilton, Hands, Hawk, Hendrick, Henry, Himmelberger, Hiner, Hollandsworth, Hollenbaugh, Hoven, Howard, Hunter, Ingraham, Jones, Jopek, Kasten, Kerns, Klock, Kottel, Lake, MacDonald, MacLaren, Malek, McAlpin, McChesney, McClafferty, McNutt, Mehlhoff, Menahan, Mendenhall, Milburn, Miller, More, Morgan, A. Noonan, P. Noonan, Nooney, O'Hara, Pease-Lopez, Peterson, Phillips, Regier, Reichner, Reinhart, Roberts, Roundstone, Sales, Sands, Sesso, Smith, Sonju, Stahl, Steenson, Stoker, Taylor, Vance, Van Dyk, Villa, Vincent, Wagner, Washburn, Welborn, Wilmer, Wilson, Wiseman, Mr. Speaker.
Total 95

Nays: McGillvray, Pomnichowski, Randall, Warburton.
Total 4

Excused: None.
Total 0

Absent or not voting: Campbell.
Total 1

SB 192 - Representative Hunter moved **SB 192** be concurred in. Motion carried as follows:

Yeas: Ankney, Arntzen, Augare, Barrett, Bean, B. Beck, P. Beck, Becker, Belcourt, Berry, Blasdel, Blewett, Boland, Boniek, Boss Ribs, Brown, Butcher, Caferro, Campbell, Cohenour, Driscoll, Ebinger, Fleming, French, Furey, Getz, Glaser, Grinde, Hamilton, Hands, Hawk, Hendrick, Henry, Himmelberger, Hiner, Hollandsworth, Hollenbaugh, Hoven, Howard, Hunter, Ingraham, Jones, Jopek, Kasten, Klock, Kottel, Lake, MacDonald, MacLaren, Malek, McAlpin, McChesney, McClafferty, McGillvray, McNutt, Mehlhoff, Menahan, Mendenhall, Milburn, Miller, More, Morgan, A. Noonan, P. Noonan, Nooney, O'Hara, Pease-Lopez, Peterson, Phillips, Pomnichowski, Regier, Reichner, Reinhart, Roberts, Roundstone, Sales, Sands, Sesso, Smith, Sonju, Stahl, Steenson, Stoker, Taylor, Vance, Van Dyk, Villa, Vincent, Wagner, Warburton, Washburn, Welborn, Wilmer, Wilson, Wiseman, Mr. Speaker.
Total 96

Nays: Bennett, Kerns, Randall.
Total 3

Excused: None.
Total 0

Absent or not voting: Dickenson.
Total 1

SB 193 - Representative Vincent moved **SB 193** be concurred in. Motion carried as follows:

Yeas: Ankney, Arntzen, Augare, Barrett, Bean, B. Beck, P. Beck, Becker, Bennett, Berry, Blasdel, Blewett, Boland, Boniek, Boss Ribs, Brown, Butcher, Caferro, Campbell, Cohenour, Dickenson, Driscoll, Ebinger, Fleming, French, Furey, Getz, Glaser, Grinde, Hamilton, Hands, Hawk, Hendrick, Henry, Himmelberger, Hiner, Hollandsworth, Hollenbaugh, Hoven, Howard, Hunter, Ingraham, Jones, Jopek, Kasten, Kerns, Klock, Kottel, Lake, MacDonald, MacLaren, Malek, McAlpin, McChesney, McClafferty, McGillvray, McNutt, Mehlhoff, Menahan, Mendenhall, Milburn, Miller, More, Morgan, A. Noonan, P. Noonan, Nooney, O'Hara, Pease-Lopez, Peterson, Phillips, Pomnichowski, Randall, Regier, Reichner, Reinhart, Roundstone, Sales, Sands, Sesso, Smith, Sonju, Stahl, Steenson, Stoker, Taylor, Vance, Van Dyk, Villa, Vincent, Warburton, Washburn, Wilmer, Wilson, Wiseman, Mr. Speaker.
Total 96

Nays: None.
Total 0

Excused: None.
Total 0

Absent or not voting: Belcourt, Roberts, Wagner, Welborn.
Total 4

SB 222 - Representative Warburton moved **SB 222** be concurred in. Motion carried as follows:

Yeas: Ankney, Arntzen, Augare, Barrett, B. Beck, P. Beck, Becker, Belcourt, Bennett, Blewett, Boland, Boniek, Boss Ribs, Brown, Caferro, Campbell, Cohenour, Dickenson, Driscoll, Ebinger, Fleming, French, Furey, Getz, Glaser, Grinde, Hamilton, Hands, Henry, Himmelberger, Hiner, Hollandsworth, Hollenbaugh, Hoven, Howard, Hunter, Ingraham, Jones, Jopek, Klock, Kottel, MacDonald, Malek, McAlpin, McChesney, McClafferty, McNutt,

Mehlhoff, Menahan, Milburn, Miller, A. Noonan, P. Noonan, Nooney, O'Hara, Pease-Lopez, Peterson, Phillips, Pomnichowski, Randall, Regier, Reichner, Reinhart, Roberts, Roundstone, Sands, Sesso, Stahl, Steenson, Taylor, Vance, Van Dyk, Villa, Wagner, Warburton, Washburn, Wilmer, Wilson, Wiseman, Mr. Speaker.
Total 80

Nays: Bean, Berry, Blasdel, Butcher, Hawk, Hendrick, Kasten, Kerns, Lake, MacLaren, McGillvray, More, Morgan, Sales, Smith, Sonju, Stoker, Vincent, Welborn.
Total 19

Excused: None.
Total 0

Absent or not voting: Mendenhall.
Total 1

SB 227 - Representative Wilmer moved **SB 227** be concurred in. Motion carried as follows:

Yeas: Arntzen, Augare, Barrett, Bean, B. Beck, P. Beck, Becker, Belcourt, Berry, Blasdel, Blewett, Boland, Boss Ribs, Brown, Butcher, Campbell, Cohenour, Dickenson, Driscoll, Ebinger, Fleming, French, Furey, Getz, Glaser, Grinde, Hamilton, Hands, Hawk, Hendrick, Henry, Himmelberger, Hiner, Hollandsworth, Hollenbaugh, Hoven, Hunter, Ingraham, Jones, Jopek, Kasten, Klock, Kottel, Lake, MacLaren, Malek, McAlpin, McChesney, McClafferty, McGillvray, McNutt, Mehlhoff, Menahan, Mendenhall, Milburn, Miller, A. Noonan, P. Noonan, Nooney, O'Hara, Peterson, Phillips, Randall, Regier, Reichner, Reinhart, Roberts, Roundstone, Sales, Sands, Sesso, Smith, Sonju, Stahl, Steenson, Stoker, Taylor, Van Dyk, Villa, Vincent, Wagner, Warburton, Washburn, Welborn, Wilmer, Wilson, Wiseman, Mr. Speaker.
Total 88

Nays: Ankney, Bennett, Boniek, Caferro, Howard, Kerns, MacDonald, More, Morgan, Pease-Lopez, Pomnichowski, Vance.
Total 12

Excused: None.
Total 0

Absent or not voting: None.
Total 0

SB 275 - Representative Furey moved **SB 275** be concurred in. Motion carried as follows:
Yeas: Ankney, Arntzen, Augare, Barrett, B. Beck, P. Beck, Becker, Bennett, Berry, Blewett, Boland, Boss Ribs, Brown, Caferro, Campbell, Cohenour, Dickenson, Driscoll, Ebinger, Fleming, French, Furey, Getz, Glaser, Grinde, Hamilton, Hands, Hawk, Henry, Himmelberger, Hiner, Hollandsworth, Hollenbaugh, Hoven, Howard, Hunter, Ingraham, Jones, Jopek, Klock, Kottel, Lake, MacDonald, MacLaren, Malek, McAlpin, McChesney, McClafferty, McNutt, Mehlhoff, Menahan, Milburn, More, Morgan, A. Noonan, P. Noonan, Nooney, O'Hara, Pease-Lopez, Peterson, Phillips, Pomnichowski, Reichner, Reinhart, Roberts, Roundstone, Sands, Sesso, Smith, Stahl, Steenson, Stoker, Vance, Van Dyk, Villa, Vincent, Wagner, Warburton, Washburn, Welborn, Wilmer, Wilson, Wiseman, Mr. Speaker.
Total 84

Nays: Bean, Blasdel, Boniek, Butcher, Hendrick, Kasten, Kerns, McGillvray, Mendenhall, Miller, Randall, Regier, Sales, Sonju, Taylor.
Total 15

Excused: None.
Total 0

Absent or not voting: Belcourt.
Total 1

SB 276 - Representative Sands moved **SB 276** be concurred in. Motion carried as follows:

Yeas: Ankney, Arntzen, Augare, Barrett, Bean, B. Beck, P. Beck, Becker, Belcourt, Bennett, Berry, Blasdel, Blewett, Boland, Boniek, Boss Ribs, Brown, Butcher, Caferro, Campbell, Cohenour, Dickenson, Driscoll, Ebinger, Fleming, French, Furey, Getz, Glaser, Grinde, Hamilton, Hands, Hawk, Hendrick, Henry, Himmelberger, Hiner, Hollandsworth, Hollenbaugh, Hoven, Howard, Hunter, Ingraham, Jones, Jopek, Kasten, Kerns, Klock, Kottel, Lake, MacDonald, MacLaren, Malek, McAlpin, McChesney, McClafferty, McNutt, Mehlhoff, Menahan, Milburn, Miller, More, Morgan, A. Noonan, P. Noonan, Nooney, O'Hara, Pease-Lopez, Peterson, Phillips, Pomnichowski, Regier, Reichner, Reinhart, Roberts, Roundstone, Sales, Sands, Sesso, Smith, Sonju, Stahl, Steenson, Stoker, Taylor, Vance, Van Dyk, Villa, Vincent, Wagner, Warburton, Washburn, Welborn, Wilmer, Wilson, Wiseman, Mr. Speaker.
Total 97

Nays: McGillvray, Randall.
Total 2

Excused: None.
Total 0

Absent or not voting: Mendenhall.
Total 1

SB 281 - Representative Blewett introduced **SB 281**
SB 281 - Representative Blewett moved **SB 281** be amended as follows:

1. Page 2, line 22.
Following: "TITLE 45"
Strike: ","
Insert: "or"

2. Page 2, line 23.
Strike: "OR TITLE 87"

Motion to amend, carried as follows:

Yeas: Ankney, Arntzen, Augare, Barrett, Bean, B. Beck, P. Beck, Becker, Belcourt, Bennett, Berry, Blasdel, Blewett, Boland, Boniek, Boss Ribs, Brown, Butcher, Caferro, Campbell, Cohenour, Dickenson, Driscoll, Ebinger, Fleming, French, Furey, Getz, Glaser, Grinde, Hamilton, Hands, Hawk, Hendrick, Henry, Himmelberger, Hiner, Hollandsworth, Hollenbaugh, Hoven, Howard, Hunter, Ingraham, Jones, Jopek, Kasten, Kerns, Klock, Kottel, Lake, MacDonald, MacLaren, Malek, McAlpin, McChesney, McClafferty, McGillvray, McNutt, Mehlhoff, Menahan, Mendenhall, Milburn, Miller, Morgan, A. Noonan, P. Noonan, Nooney, O'Hara, Peterson, Phillips, Pomnichowski, Randall, Regier, Reichner, Reinhart, Roberts, Roundstone, Sales, Sands, Sesso, Smith, Sonju, Stahl, Steenson, Stoker, Taylor, Vance, Van Dyk, Villa, Vincent, Wagner, Warburton, Washburn, Welborn, Wilmer, Wilson, Wiseman, Mr. Speaker.
Total 98

Nays: More, Pease-Lopez.
Total 2

Excused: None.
Total 0

Absent or not voting: None.
Total 0

SB 281 - Representative Blewett moved **SB 281** as amended, be concurred in. Motion carried as follows:

Yeas: Ankney, Arntzen, Barrett, Bean, B. Beck, P. Beck, Bennett, Berry, Blasdel, Blewett, Boland, Boniek, Boss Ribs, Brown, Butcher, Campbell, Cohenour, Dickenson, Driscoll, Ebinger, Fleming, French, Furey, Getz, Glaser, Grinde, Hamilton, Hands, Hawk, Hendrick, Henry, Himmelberger, Hiner, Hollandsworth, Hollenbaugh, Hoven, Howard, Hunter, Ingraham, Jones, Jopek, Kasten, Kerns, Klock, Kottel, Lake, MacDonald, MacLaren, Malek, McAlpin, McChesney, McClafferty, McNutt, Mehlhoff, Menahan, Milburn, Miller, Morgan, A. Noonan, P. Noonan, Nooney, O'Hara, Peterson, Phillips, Pomnichowski, Randall, Regier, Reichner, Reinhart, Roberts, Roundstone, Sales, Sands, Sesso, Smith, Sonju, Stahl, Steenson, Stoker, Taylor, Vance, Van Dyk, Villa, Vincent, Washburn, Wilmer, Wilson, Wiseman.
Total 88

Nays: Augare, Becker, Belcourt, Caferro, McGillvray, Mendenhall, More, Pease-Lopez, Wagner, Warburton, Mr. Speaker.
Total 11

Excused: None.
Total 0

Absent or not voting: Welborn.
Total 1

SB 297 - Representative Milburn moved **SB 297** be concurred in. Motion carried as follows:
Yeas: Ankney, Arntzen, Augare, Barrett, Bean, B. Beck, P. Beck, Becker, Belcourt, Berry, Blasdel, Blewett, Boland, Boss Ribs, Brown, Butcher, Caferro, Campbell, Cohenour, Dickenson, Driscoll, Ebinger, Fleming, French, Furey, Getz, Glaser, Grinde, Hamilton, Hands, Hawk, Hendrick, Henry, Himmelberger, Hiner, Hollandsworth, Hollenbaugh, Hoven, Howard, Hunter, Ingraham, Jones, Kasten, Klock, Kottel, Lake, MacDonald, MacLaren, Malek, McAlpin, McChesney, McClafferty, McNutt, Mehlhoff, Menahan, Milburn, Miller, Morgan, A. Noonan, P. Noonan, Nooney, O'Hara, Pease-Lopez, Peterson, Phillips, Pomnichowski, Regier, Reinhart, Roberts, Roundstone, Sands, Sesso, Smith, Sonju, Stahl, Steenson, Taylor, Vance, Van Dyk, Villa, Warburton, Washburn, Wilmer, Wilson, Wiseman, Mr. Speaker.
Total 86

Nays: Bennett, Boniek, Jopek, Kerns, McGillvray, Mendenhall, More, Randall, Sales, Stoker, Vincent, Wagner, Welborn.
Total 13

Excused: None.
Total 0

Absent or not voting: Reichner.
Total 1

SB 308 - Representative Hunter moved **SB 308** be concurred in. Motion carried as follows:

Yeas: Ankney, Arntzen, Augare, Barrett, Bean, B. Beck, P. Beck, Becker, Bennett, Berry, Boland, Boniek, Boss Ribs, Brown, Butcher, Caferro, Campbell, Cohenour, Dickenson, Driscoll, Ebinger, Fleming, French, Furey, Getz, Glaser, Grinde, Hamilton, Hands, Hendrick, Henry, Himmelberger, Hollandsworth, Hollenbaugh, Hoven, Howard, Hunter, Jones, Jopek, Kasten, Klock, Kottel, MacDonald, MacLaren, Malek, McAlpin, McChesney, McClafferty, McNutt, Mehlhoff, Menahan, Milburn, More, Morgan, A. Noonan, P. Noonan, Nooney, O'Hara, Pease-Lopez, Peterson, Phillips, Pomnichowski, Reichner, Reinhart, Roberts, Roundstone, Sands, Sesso, Smith, Sonju, Stahl, Steenson, Stoker, Taylor, Vance, Van Dyk, Villa, Vincent, Warburton, Washburn, Welborn, Wilmer, Wilson, Wiseman, Mr. Speaker.
Total 85

Nays: Belcourt, Blasdel, Hawk, Ingraham, Kerns, Lake, McGillvray, Mendenhall, Miller, Randall, Regier, Sales, Wagner.
Total 13

Excused: None.
Total 0

Absent or not voting: Blewett, Hiner.
Total 2

SB 311 - Representative McClafferty moved **SB 311** be concurred in. Motion carried as follows:

Yeas: Ankney, Arntzen, Augare, Barrett, Bean, B. Beck, Becker, Belcourt, Bennett, Berry, Blasdel, Blewett, Boland, Boniek, Boss Ribs, Brown, Butcher, Campbell, Cohenour, Dickenson, Driscoll, Ebinger, Fleming, French, Furey, Getz, Glaser, Grinde, Hamilton, Hands, Hawk, Hendrick, Himmelberger, Hiner, Hollandsworth, Hollenbaugh, Hoven, Howard, Hunter, Ingraham, Jones, Jopek, Kasten, Kerns, Klock, Kottel, Lake, MacDonald, MacLaren, Malek, McAlpin, McChesney, McClafferty, McGillvray, McNutt, Mehlhoff, Menahan, Mendenhall, Milburn, Miller, More, Morgan, A. Noonan, P. Noonan, Nooney, O'Hara, Pease-Lopez, Peterson, Phillips, Pomnichowski, Randall, Regier, Reichner, Reinhart, Roberts, Roundstone, Sales, Sands, Sesso, Smith, Sonju, Stahl, Steenson, Stoker, Taylor, Vance, Van Dyk, Villa, Vincent, Wagner, Warburton, Washburn, Welborn, Wilmer, Wilson, Wiseman, Mr. Speaker.
Total 97

Nays: P. Beck, Caferro, Henry.
Total 3

Excused: None.
Total 0

Absent or not voting: None.
Total 0

SB 349 - Representative Sonju introduced **SB 349**.
SB 349 - Representative Sonju moved **SB 349** be amended as follows:

1. Page 2, line 30.
Following: line 29
Insert: "NEW SECTION. **Section 3. Department to provide information to assist contractors asserting confidentiality claims.** The department or governmental body shall provide contractors and prospective contractors

with information as to procedures the contractors may use to assert a claim of confidentiality with respect to protected information that must be submitted to the department or governmental body with regard to bids or contracts, such as trade secrets or proprietary information. The information provided by the department may include a model affidavit that can be adapted for use by the contractor or prospective contractor to meet the particular confidentiality claim being asserted."
Renumber: subsequent sections

2. Page 3, line 22.
Following: line 21
Insert: "NEW SECTION. **Section 5. Codification instruction.** [Section 5] is intended to be codified as an integral part of Title 18, chapter 4, part 1, and the provisions of Title 18, chapter 4, part 1, apply to [section 45]."

Motion to amend, carried as follows:

Yeas: Ankney, Augare, Barrett, Bean, B. Beck, P. Beck, Becker, Belcourt, Bennett, Berry, Blasdel, Blewett, Boland, Boniek, Boss Ribs, Brown, Butcher, Campbell, Cohenour, Driscoll, Ebinger, Fleming, French, Furey, Getz, Glaser, Grinde, Hamilton, Hands, Hawk, Hendrick, Henry, Himmelberger, Hiner, Hollandsworth, Hoven, Howard, Hunter, Ingraham, Jones, Jopek, Kasten, Kerns, Klock, Kottel, Lake, MacDonald, MacLaren, Malek, McAlpin, McChesney, McClafferty, McGillvray, McNutt, Mehlhoff, Menahan, Mendenhall, Milburn, Miller, More, Morgan, A. Noonan, P. Noonan, Nooney, O'Hara, Pease-Lopez, Peterson, Phillips, Randall, Regier, Reichner, Reinhart, Roberts, Roundstone, Sales, Sands, Smith, Sonju, Stahl, Steenson, Stoker, Taylor, Vance, Van Dyk, Villa, Vincent, Wagner, Warburton, Washburn, Welborn, Wilmer, Wilson, Wiseman, Mr. Speaker.
Total 94

Nays: Caferro, Dickenson, Hollenbaugh, Pomnichowski, Sesso.
Total 5

Excused: None.
Total 0

Absent or not voting: Arntzen.
Total 1

SB 349 - Representative Sonju moved **SB 349** as amended, be concurred in. Motion carried as follows:

Yeas: Ankney, Arntzen, Augare, Barrett, Bean, B. Beck, P. Beck, Becker, Bennett, Berry, Blasdel, Blewett, Boland, Boniek, Boss Ribs, Brown, Butcher, Cohenour, Driscoll, Ebinger, Fleming, French, Furey, Getz, Glaser, Grinde, Hamilton, Hawk, Hendrick, Henry, Himmelberger, Hiner, Hollandsworth, Hoven, Howard, Hunter, Ingraham, Jones, Jopek, Kasten, Kerns, Klock, Kottel, Lake, MacDonald, MacLaren, Malek, McAlpin, McChesney, McClafferty, McGillvray, McNutt, Mehlhoff, Menahan, Mendenhall, Milburn, Miller, More, Morgan, A. Noonan, P. Noonan, Nooney, O'Hara, Pease-Lopez, Peterson, Randall, Regier, Reichner, Reinhart, Roberts, Roundstone, Sales, Sands, Smith, Sonju, Stahl, Steenson, Stoker, Taylor, Vance, Van Dyk, Villa, Vincent, Wagner, Warburton, Washburn, Welborn, Wilmer, Wilson, Wiseman, Mr. Speaker.
Total 91

Nays: Caferro, Dickenson, Hands, Hollenbaugh, Phillips, Pomnichowski, Sesso.
Total 7

Excused: None.

Total 0

Absent or not voting: Belcourt, Campbell.
Total 2

SB 360 - Representative Menahan moved **SB 360** be concurred in. Motion carried as follows:

Yeas: Ankney, Arntzen, Augare, Bean, B. Beck, P. Beck, Belcourt, Bennett, Berry, Blasdel, Blewett, Boniek, Boss Ribs, Brown, Butcher, Campbell, Ebinger, Fleming, French, Furey, Getz, Glaser, Grinde, Hamilton, Hawk, Hendrick, Himmelberger, Hiner, Hollandsworth, Hollenbaugh, Hoven, Howard, Hunter, Ingraham, Jones, Jopek, Kasten, Kerns, Klock, Kottel, Lake, MacLaren, McAlpin, McChesney, McClafferty, McGillvray, McNutt, Mehlhoff, Menahan, Mendenhall, Milburn, Miller, More, Morgan, A. Noonan, P. Noonan, Nooney, O'Hara, Pease-Lopez, Peterson, Phillips, Randall, Regier, Reichner, Roberts, Sales, Sesso, Smith, Sonju, Stahl, Steenson, Stoker, Taylor, Vance, Van Dyk, Villa, Vincent, Wagner, Warburton, Washburn, Welborn, Mr. Speaker.
Total 82

Nays: Barrett, Becker, Boland, Caferro, Cohenour, Dickenson, Driscoll, Hands, Henry, MacDonald, Malek, Pomnichowski, Reinhart, Roundstone, Sands, Wilmer, Wilson, Wiseman.
Total 18

Excused: None.
Total 0

Absent or not voting: None.
Total 0

SB 367 - Representative Ingraham moved **SB 367** be concurred in. Motion carried as follows:
-
Yeas: Ankney, Arntzen, Augare, Barrett, Bean, B. Beck, P. Beck, Becker, Belcourt, Bennett, Berry, Blasdel, Blewett, Boland, Boniek, Boss Ribs, Brown, Butcher, Caferro, Campbell, Cohenour, Dickenson, Driscoll, Ebinger, Fleming, French, Furey, Getz, Glaser, Grinde, Hamilton, Hands, Hawk, Hendrick, Henry, Himmelberger, Hiner, Hollandsworth, Hollenbaugh, Hoven, Howard, Hunter, Ingraham, Jones, Jopek, Kasten, Kerns, Klock, Kottel, Lake, MacDonald, MacLaren, Malek, McAlpin, McChesney, McClafferty, McGillvray, McNutt, Mehlhoff, Menahan, Mendenhall, Milburn, Miller, More, Morgan, A. Noonan, P. Noonan, Nooney, O'Hara, Pease-Lopez, Peterson, Phillips, Pomnichowski, Randall, Regier, Reichner, Reinhart, Roberts, Roundstone, Sales, Sands, Sesso, Smith, Sonju, Stahl, Steenson, Stoker, Taylor, Vance, Van Dyk, Villa, Vincent, Wagner, Warburton, Washburn, Welborn, Wilmer, Wilson, Wiseman, Mr. Speaker.
Total 100

Nays: None.
Total 0

Excused: None.
Total 0

Absent or not voting: None.
Total 0

SB 375 - Representative Milburn moved **SB 375** be concurred in. Motion carried as follows:

Yeas: Ankney, Arntzen, Augare, Barrett, Bean, B. Beck, P. Beck, Becker, Belcourt, Bennett, Berry, Blasdel,

Blewett, Boland, Boniek, Boss Ribs, Brown, Butcher, Caferro, Campbell, Cohenour, Dickenson, Driscoll, Ebinger, Fleming, French, Furey, Getz, Glaser, Hamilton, Hands, Hawk, Hendrick, Henry, Himmelberger, Hiner, Hollandsworth, Hollenbaugh, Hoven, Howard, Hunter, Ingraham, Jones, Jopek, Kasten, Kerns, Klock, Kottel, Lake, MacDonald, MacLaren, Malek, McAlpin, McChesney, McClafferty, McGillvray, McNutt, Mehlhoff, Menahan, Mendenhall, Milburn, Miller, More, Morgan, A. Noonan, P. Noonan, Nooney, O'Hara, Pease-Lopez, Peterson, Phillips, Pomnichowski, Randall, Regier, Reichner, Reinhart, Roberts, Roundstone, Sales, Sands, Sesso, Smith, Sonju, Stahl, Steenson, Stoker, Taylor, Vance, Van Dyk, Villa, Vincent, Wagner, Warburton, Washburn, Welborn, Wilmer, Wilson, Wiseman, Mr. Speaker.
Total 99

Nays: None.
Total 0

Excused: None.
Total 0

Absent or not voting: Grinde.
Total 1

SB 388 - Representative Arntzen moved **SB 388** be concurred in. Motion carried as follows:

Yeas: Ankney, Arntzen, Augare, Barrett, B. Beck, P. Beck, Becker, Belcourt, Berry, Blasdel, Blewett, Boland, Boss Ribs, Campbell, Cohenour, Dickenson, Driscoll, Ebinger, Fleming, French, Furey, Getz, Glaser, Grinde, Hamilton, Hands, Henry, Hiner, Hollenbaugh, Hunter, Jones, Jopek, Klock, Kottel, MacDonald, Malek, McAlpin, McChesney, McClafferty, Mehlhoff, Menahan, A. Noonan, P. Noonan, Nooney, O'Hara, Pease-Lopez, Peterson, Phillips, Pomnichowski, Regier, Reichner, Reinhart, Roundstone, Sands, Sesso, Sonju, Steenson, Taylor, Van Dyk, Villa, Wilmer, Wilson, Wiseman, Mr. Speaker.
Total 64

Nays: Bean, Bennett, Boniek, Brown, Butcher, Hawk, Hendrick, Himmelberger, Hollandsworth, Hoven, Howard, Ingraham, Kasten, Kerns, Lake, MacLaren, McGillvray, McNutt, Mendenhall, Milburn, Miller, More, Morgan, Randall, Roberts, Sales, Smith, Stahl, Stoker, Vance, Vincent, Wagner, Warburton, Washburn, Welborn.
Total 35

Excused: None.
Total 0

Absent or not voting: Caferro.
Total 1

SB 392 - Representative Fleming moved **SB 392** be concurred in. Motion carried as follows:

Yeas: Ankney, Arntzen, Augare, Barrett, P. Beck, Becker, Belcourt, Bennett, Berry, Blasdel, Blewett, Boland, Boniek, Boss Ribs, Brown, Caferro, Campbell, Cohenour, Dickenson, Driscoll, Ebinger, Fleming, French, Furey, Getz, Glaser, Grinde, Hamilton, Hands, Hawk, Hendrick, Henry, Himmelberger, Hiner, Hollandsworth, Hollenbaugh, Hoven, Howard, Hunter, Jones, Jopek, Klock, Kottel, MacDonald, MacLaren, Malek, McAlpin, McChesney, McClafferty, McGillvray, McNutt, Mehlhoff, Menahan, Mendenhall, Milburn, Morgan, A. Noonan, P. Noonan, Nooney, O'Hara, Pease-Lopez, Phillips, Pomnichowski, Regier, Reinhart, Roberts, Roundstone, Sands, Sesso, Smith, Steenson, Taylor, Vance, Van Dyk, Villa, Warburton, Washburn, Wilmer, Wilson, Wiseman, Mr. Speaker.
Total 81

Nays: Bean, B. Beck, Butcher, Ingraham, Kasten, Kerns, Lake, Miller, Peterson, Randall, Sales, Sonju, Stahl, Stoker, Wagner, Welborn.
Total 16

Excused: None.
Total 0

Absent or not voting: More, Reichner, Vincent.
Total 3

SB 400 - Representative K. Peterson moved **SB 400** be concurred in. Motion carried as follows:

Yeas: Ankney, Arntzen, Augare, Barrett, Bean, P. Beck, Becker, Belcourt, Bennett, Berry, Blasdel, Blewett, Boland, Boniek, Boss Ribs, Brown, Butcher, Caferro, Campbell, Cohenour, Dickenson, Driscoll, Ebinger, Fleming, French, Furey, Getz, Glaser, Grinde, Hamilton, Hands, Hawk, Hendrick, Henry, Himmelberger, Hiner, Hollandsworth, Hollenbaugh, Hoven, Howard, Hunter, Ingraham, Jones, Jopek, Kasten, Kerns, Klock, Kottel, Lake, MacDonald, MacLaren, Malek, McAlpin, McChesney, McClafferty, McGillvray, McNutt, Mehlhoff, Menahan, Mendenhall, Milburn, Miller, More, Morgan, A. Noonan, P. Noonan, Nooney, O'Hara, Pease-Lopez, Peterson, Phillips, Pomnichowski, Randall, Regier, Reinhart, Roberts, Sales, Sands, Sesso, Smith, Steenson, Stoker, Taylor, Vance, Van Dyk, Villa, Vincent, Wagner, Warburton, Washburn, Wilmer, Wilson, Wiseman, Mr. Speaker.
Total 94

Nays: B. Beck, Reichner, Sonju, Stahl, Welborn.
Total 5

Excused: None.
Total 0

Absent or not voting: Roundstone.
Total 1

SB 401 - Representative More moved **SB 401** be concurred in. Motion carried as follows:

Yeas: Ankney, Arntzen, Augare, Barrett, Bean, P. Beck, Becker, Belcourt, Bennett, Berry, Blasdel, Blewett, Boland, Boniek, Boss Ribs, Brown, Butcher, Caferro, Campbell, Cohenour, Dickenson, Driscoll, Ebinger, Fleming, French, Furey, Getz, Glaser, Grinde, Hamilton, Hands, Hawk, Hendrick, Henry, Himmelberger, Hiner, Hollandsworth, Hollenbaugh, Hoven, Howard, Hunter, Ingraham, Jones, Jopek, Kasten, Kerns, Klock, Kottel, Lake, MacDonald, MacLaren, Malek, McAlpin, McChesney, McClafferty, McGillvray, McNutt, Mehlhoff, Menahan, Mendenhall, Milburn, Miller, More, Morgan, A. Noonan, P. Noonan, Nooney, O'Hara, Pease-Lopez, Peterson, Phillips, Pomnichowski, Randall, Regier, Reichner, Reinhart, Roberts, Roundstone, Sales, Sands, Sesso, Sonju, Steenson, Stoker, Taylor, Vance, Van Dyk, Villa, Vincent, Wagner, Warburton, Washburn, Welborn, Wilmer, Wilson, Wiseman, Mr. Speaker.
Total 97

Nays: B. Beck, Smith.
Total 2

Excused: None.
Total 0

Absent or not voting: Stahl.

Total 1

SB 405 - Representative Becker moved **SB 405** be concurred in. Motion carried as follows:

Yeas: Ankney, Arntzen, Augare, Barrett, Bean, B. Beck, P. Beck, Becker, Belcourt, Bennett, Berry, Blasdel, Blewett, Boland, Boniek, Boss Ribs, Brown, Butcher, Caferro, Campbell, Cohenour, Dickenson, Driscoll, Ebinger, Fleming, French, Furey, Getz, Glaser, Grinde, Hamilton, Hands, Hawk, Hendrick, Henry, Himmelberger, Hiner, Hollandsworth, Hollenbaugh, Hoven, Howard, Hunter, Ingraham, Jones, Jopek, Kasten, Kerns, Klock, Kottel, Lake, MacDonald, MacLaren, Malek, McAlpin, McChesney, McClafferty, McGillvray, McNutt, Mehlhoff, Menahan, Mendenhall, Milburn, Miller, More, Morgan, A. Noonan, P. Noonan, Nooney, O'Hara, Pease-Lopez, Peterson, Phillips, Pomnichowski, Randall, Regier, Reichner, Reinhart, Roberts, Roundstone, Sales, Sands, Sesso, Smith, Sonju, Stahl, Steenson, Stoker, Taylor, Vance, Van Dyk, Villa, Vincent, Wagner, Warburton, Washburn, Welborn, Wilmer, Wilson, Wiseman, Mr. Speaker.
Total 100

Nays: None.
Total 0

Excused: None.
Total 0

Absent or not voting: None.
Total 0

SB 424 - Representative Boland moved **SB 424** be concurred in. Motion carried as follows:

Yeas: Ankney, Augare, Barrett, P. Beck, Becker, Belcourt, Berry, Blewett, Boland, Boniek, Boss Ribs, Caferro, Campbell, Cohenour, Dickenson, Driscoll, Ebinger, Fleming, French, Furey, Getz, Grinde, Hamilton, Hands, Henry, Hiner, Hollenbaugh, Hunter, Jopek, Klock, Kottel, MacDonald, Malek, McAlpin, McChesney, McClafferty, Mehlhoff, Menahan, A. Noonan, P. Noonan, O'Hara, Pease-Lopez, Phillips, Pomnichowski, Regier, Reichner, Reinhart, Roberts, Roundstone, Sands, Sesso, Steenson, Van Dyk, Villa, Vincent, Washburn, Wilmer, Wilson, Wiseman, Mr. Speaker.
Total 60

Nays: Arntzen, Bean, B. Beck, Bennett, Blasdel, Brown, Butcher, Glaser, Hawk, Hendrick, Himmelberger, Hollandsworth, Hoven, Howard, Ingraham, Jones, Kasten, Kerns, Lake, MacLaren, McGillvray, McNutt, Mendenhall, Milburn, Miller, More, Morgan, Nooney, Peterson, Randall, Sales, Smith, Sonju, Stahl, Stoker, Taylor, Vance, Wagner, Warburton, Welborn.
Total 40

Excused: None.
Total 0

Absent or not voting: None.
Total 0

SB 441 - Representative Kottel moved **SB 441** be concurred in. Motion carried as follows:

Yeas: Ankney, Augare, Barrett, Bean, B. Beck, P. Beck, Becker, Belcourt, Bennett, Berry, Blasdel, Blewett, Boland, Boss Ribs, Brown, Butcher, Caferro, Campbell, Cohenour, Dickenson, Driscoll, Ebinger, Fleming, French, Furey, Getz, Glaser, Grinde, Hamilton, Hands, Hawk, Hendrick, Henry, Himmelberger, Hiner, Hollandsworth,

Hollenbaugh, Hoven, Howard, Hunter, Ingraham, Jones, Jopek, Kasten, Kerns, Klock, Kottel, Lake, MacDonald, MacLaren, Malek, McAlpin, McChesney, McClafferty, McGillvray, McNutt, Mehlhoff, Menahan, Mendenhall, Milburn, Miller, More, Morgan, A. Noonan, P. Noonan, Nooney, O'Hara, Pease-Lopez, Peterson, Phillips, Pomnichowski, Randall, Regier, Reichner, Reinhart, Roberts, Roundstone, Sales, Sands, Sesso, Smith, Sonju, Stahl, Steenson, Stoker, Taylor, Vance, Van Dyk, Villa, Vincent, Wagner, Warburton, Washburn, Wilmer, Wilson, Wiseman, Mr. Speaker.
Total 97

Nays: None.
Total 0

Excused: None.
Total 0

Absent or not voting: Arntzen, Boniek, Welborn.
Total 3

SB 444 - Representative Reinhart moved **SB 444** be concurred in. Motion carried as follows:

Yeas: Ankney, Augare, Barrett, B. Beck, P. Beck, Becker, Belcourt, Bennett, Berry, Blewett, Boland, Boss Ribs, Brown, Butcher, Caferro, Campbell, Cohenour, Dickenson, Driscoll, Ebinger, Fleming, French, Furey, Getz, Glaser, Grinde, Hamilton, Hands, Henry, Hiner, Hollandsworth, Hollenbaugh, Hoven, Howard, Hunter, Jones, Jopek, Klock, Kottel, MacDonald, MacLaren, Malek, McAlpin, McChesney, McClafferty, McNutt, Mehlhoff, Menahan, Milburn, Morgan, A. Noonan, P. Noonan, Nooney, O'Hara, Pease-Lopez, Peterson, Phillips, Pomnichowski, Reinhart, Roberts, Roundstone, Sands, Sesso, Stahl, Steenson, Taylor, Vance, Van Dyk, Villa, Washburn, Wilmer, Wilson, Wiseman, Mr. Speaker.
Total 74

Nays: Bean, Blasdel, Boniek, Hawk, Hendrick, Himmelberger, Ingraham, Kasten, Kerns, Lake, McGillvray, Mendenhall, Miller, More, Randall, Regier, Reichner, Sales, Smith, Sonju, Stoker, Vincent, Wagner, Warburton, Welborn.
Total 25

Excused: None.
Total 0

Absent or not voting: Arntzen.
Total 1

SB 463 - Representative Furey moved **SB 463** be concurred in. Motion carried as follows:

Yeas: Ankney, Arntzen, Augare, Barrett, Bean, B. Beck, P. Beck, Becker, Belcourt, Bennett, Berry, Blasdel, Blewett, Boland, Boniek, Boss Ribs, Brown, Butcher, Caferro, Cohenour, Dickenson, Driscoll, Ebinger, Fleming, French, Furey, Getz, Glaser, Grinde, Hamilton, Hands, Hawk, Hendrick, Henry, Himmelberger, Hiner, Hollandsworth, Hollenbaugh, Hoven, Howard, Hunter, Ingraham, Jones, Jopek, Kasten, Kerns, Klock, Kottel, Lake, MacDonald, MacLaren, Malek, McAlpin, McChesney, McClafferty, McGillvray, McNutt, Mehlhoff, Menahan, Mendenhall, Milburn, Miller, More, Morgan, A. Noonan, P. Noonan, Nooney, O'Hara, Pease-Lopez, Peterson, Phillips, Pomnichowski, Randall, Regier, Reichner, Reinhart, Roberts, Roundstone, Sales, Sands, Sesso, Smith, Sonju, Stahl, Steenson, Stoker, Taylor, Vance, Van Dyk, Villa, Wagner, Warburton, Washburn, Welborn, Wilmer, Wilson, Wiseman, Mr. Speaker.
Total 98

Nays: None.
Total 0

Excused: None.
Total 0

Absent or not voting: Campbell, Vincent.
Total 2

SJR 11 - Representative Fleming moved **SJR 11** be concurred in. Motion carried as follows:

Yeas: Ankney, Arntzen, Augare, Barrett, P. Beck, Becker, Belcourt, Berry, Blewett, Boland, Boss Ribs, Brown, Caferro, Campbell, Cohenour, Dickenson, Driscoll, Ebinger, Fleming, French, Furey, Getz, Glaser, Grinde, Hamilton, Hands, Henry, Hiner, Hollenbaugh, Hoven, Hunter, Jones, Jopek, Klock, Kottel, MacDonald, Malek, McAlpin, McChesney, McClafferty, Mehlhoff, Menahan, Milburn, A. Noonan, P. Noonan, O'Hara, Pease-Lopez, Peterson, Phillips, Pomnichowski, Reinhart, Roberts, Roundstone, Sands, Sesso, Stahl, Steenson, Taylor, Van Dyk, Villa, Wagner, Warburton, Welborn, Wilmer, Wilson, Wiseman, Mr. Speaker.
Total 67

Nays: Bean, B. Beck, Bennett, Blasdel, Boniek, Butcher, Hawk, Hendrick, Himmelberger, Hollandsworth, Howard, Ingraham, Kasten, Kerns, Lake, MacLaren, McGillvray, McNutt, Mendenhall, Miller, More, Morgan, Nooney, Randall, Regier, Reichner, Smith, Sonju, Stoker, Vance, Vincent, Washburn.
Total 32

Excused: None.
Total 0

Absent or not voting: Sales.
Total 1

SJR 20 - Representative Sales moved **SJR 20** be concurred in. Motion carried as follows:

Yeas: Ankney, Augare, Barrett, Bean, B. Beck, P. Beck, Becker, Belcourt, Bennett, Berry, Blasdel, Blewett, Boland, Boniek, Boss Ribs, Brown, Butcher, Caferro, Campbell, Cohenour, Dickenson, Driscoll, Ebinger, French, Furey, Getz, Glaser, Grinde, Hamilton, Hands, Hawk, Hendrick, Henry, Himmelberger, Hiner, Hollandsworth, Hollenbaugh, Hoven, Howard, Hunter, Ingraham, Jones, Jopek, Kasten, Kerns, Klock, Kottel, MacDonald, Malek, McAlpin, McChesney, McClafferty, McNutt, Mehlhoff, Menahan, Mendenhall, Milburn, Miller, More, Morgan, A. Noonan, P. Noonan, Nooney, Pease-Lopez, Peterson, Phillips, Pomnichowski, Randall, Regier, Reinhart, Roberts, Roundstone, Sales, Sands, Sesso, Sonju, Stahl, Steenson, Taylor, Van Dyk, Villa, Vincent, Wagner, Warburton, Washburn, Welborn, Wilmer, Wilson, Wiseman, Mr. Speaker.
Total 90

Nays: Arntzen, Lake, MacLaren, McGillvray, O'Hara, Reichner, Smith, Stoker, Vance.
Total 9

Excused: None.
Total 0

Absent or not voting: Fleming.
Total 1

SJR 25 - Representative Wilmer moved **SJR 25** be concurred in. Motion carried as follows:

Yeas: Arntzen, Barrett, P. Beck, Becker, Belcourt, Blewett, Boland, Boss Ribs, Brown, Caferro, Campbell, Cohenour, Dickenson, Driscoll, Ebinger, Fleming, French, Furey, Getz, Glaser, Grinde, Hamilton, Hands, Henry, Hollenbaugh, Hunter, Kottel, Lake, MacDonald, Malek, McAlpin, McChesney, McClafferty, Menahan, Milburn, A. Noonan, P. Noonan, O'Hara, Pease-Lopez, Phillips, Pomnichowski, Reinhart, Roundstone, Sands, Sesso, Steenson, Stoker, Warburton, Washburn, Wilmer, Wilson, Wiseman, Mr. Speaker.
Total 53

Nays: Ankney, Augare, Bean, B. Beck, Bennett, Berry, Blasdel, Boniek, Butcher, Hawk, Hendrick, Himmelberger, Hiner, Hollandsworth, Hoven, Howard, Ingraham, Jones, Jopek, Kasten, Kerns, Klock, MacLaren, McGillvray, McNutt, Mehlhoff, Mendenhall, Miller, More, Morgan, Nooney, Peterson, Randall, Regier, Reichner, Roberts, Sales, Smith, Sonju, Stahl, Taylor, Vance, Van Dyk, Villa, Vincent, Wagner, Welborn.
Total 47

Excused: None.
Total 0

Absent or not voting: None.
Total 0

SJR 26 - Representative Sands moved **SJR 26** be concurred in. Motion carried as follows:

Yeas: Ankney, Arntzen, Augare, Barrett, Bean, P. Beck, Becker, Belcourt, Bennett, Blasdel, Blewett, Boland, Boniek, Boss Ribs, Caferro, Campbell, Cohenour, Dickenson, Driscoll, Ebinger, Fleming, French, Furey, Getz, Glaser, Grinde, Hamilton, Hands, Hendrick, Henry, Himmelberger, Hiner, Hollandsworth, Hollenbaugh, Hoven, Howard, Hunter, Jones, Jopek, Kasten, Klock, Kottel, MacDonald, MacLaren, Malek, McAlpin, McChesney, McClafferty, McGillvray, McNutt, Mehlhoff, Menahan, Milburn, A. Noonan, P. Noonan, Nooney, O'Hara, Pease-Lopez, Peterson, Phillips, Pomnichowski, Randall, Reichner, Reinhart, Roberts, Roundstone, Sands, Sesso, Smith, Sonju, Stahl, Steenson, Stoker, Taylor, Van Dyk, Villa, Vincent, Warburton, Washburn, Welborn, Wilmer, Wilson, Wiseman, Mr. Speaker.
Total 84

Nays: B. Beck, Berry, Brown, Butcher, Hawk, Ingraham, Kerns, Lake, Mendenhall, Miller, More, Morgan, Regier, Sales, Vance, Wagner.
Total 16

Excused: None.
Total 0

Absent or not voting: None.
Total 0

SB 32 - Representative Sales moved **SB 32** be concurred in. Motion carried as follows:

Yeas: Ankney, Arntzen, Augare, Barrett, B. Beck, Becker, Belcourt, Bennett, Berry, Blasdel, Blewett, Boland, Boniek, Boss Ribs, Brown, Caferro, Campbell, Driscoll, Ebinger, Fleming, Furey, Getz, Glaser, Grinde, Hamilton, Hands, Hendrick, Henry, Hiner, Hollenbaugh, Hoven, Hunter, Ingraham, Jones, Jopek, Kasten, Kerns, Klock, Kottel, MacLaren, McAlpin, McChesney, McGillvray, McNutt, Mehlhoff, Mendenhall, Milburn, Miller, Morgan, A. Noonan, Nooney, O'Hara, Peterson, Randall, Roberts, Roundstone, Sales, Sands, Sesso, Smith, Sonju, Stahl, Steenson, Stoker, Taylor, Vance, Van Dyk, Villa, Vincent, Wagner, Warburton, Washburn, Welborn, Wilmer,

Wilson, Wiseman, Mr. Speaker.
Total 77

Nays: Bean, P. Beck, Butcher, Cohenour, Dickenson, French, Hawk, Himmelberger, Hollandsworth, Howard, Lake, MacDonald, Malek, McClafferty, Menahan, More, P. Noonan, Pease-Lopez, Phillips, Pomnichowski, Regier, Reichner, Reinhart.
Total 23

Excused: None.
Total 0

Absent or not voting: None.
Total 0

HJR 33 - Senate Amendments - Representative Bergren moved Senate amendments to **HJR 33** be concurred in. Motion carried as follows:

Yeas: Ankney, Arntzen, Augare, Barrett, Bean, B. Beck, P. Beck, Becker, Belcourt, Bennett, Berry, Blasdel, Blewett, Boland, Boss Ribs, Brown, Butcher, Caferro, Campbell, Cohenour, Dickenson, Driscoll, Ebinger, Fleming, French, Furey, Getz, Glaser, Grinde, Hamilton, Hands, Hawk, Hendrick, Henry, Himmelberger, Hiner, Hollandsworth, Hollenbaugh, Hoven, Hunter, Jones, Jopek, Klock, Kottel, Lake, MacDonald, MacLaren, Malek, McAlpin, McChesney, McClafferty, McNutt, Mehlhoff, Menahan, Milburn, Morgan, A. Noonan, P. Noonan, Nooney, O'Hara, Pease-Lopez, Peterson, Phillips, Pomnichowski, Reichner, Reinhart, Roberts, Roundstone, Sands, Sesso, Sonju, Steenson, Stoker, Taylor, Van Dyk, Villa, Warburton, Washburn, Welborn, Wilmer, Wilson, Wiseman, Mr. Speaker.
Total 83

Nays: Boniek, Howard, Ingraham, Kasten, Kerns, McGillvray, Mendenhall, Miller, More, Randall, Regier, Sales, Smith, Stahl, Vance, Vincent, Wagner.
Total 17

Excused: None.
Total 0

Absent or not voting: None.
Total 0

Majority Leader Campbell moved the committee rise and report. Motion carried. Committee arose. House resumed. Mr. Speaker in the chair. Chairman Wiseman moved the Committee of the Whole report be adopted. Report adopted as follows:

Yeas: Ankney, Arntzen, Augare, Barrett, Bean, B. Beck, P. Beck, Becker, Belcourt, Bennett, Berry, Blasdel, Blewett, Boland, Boss Ribs, Brown, Butcher, Caferro, Campbell, Cohenour, Dickenson, Driscoll, Ebinger, Fleming, French, Furey, Getz, Glaser, Grinde, Hamilton, Hands, Hawk, Hendrick, Henry, Himmelberger, Hiner, Hollandsworth, Hollenbaugh, Hoven, Howard, Hunter, Ingraham, Jones, Jopek, Kasten, Kerns, Klock, Kottel, Lake, MacDonald, MacLaren, Malek, McAlpin, McChesney, McClafferty, McNutt, Mehlhoff, Menahan, Milburn, Morgan, A. Noonan, P. Noonan, Nooney, O'Hara, Pease-Lopez, Peterson, Phillips, Pomnichowski, Randall, Regier, Reichner, Reinhart, Roberts, Roundstone, Sands, Sesso, Smith, Sonju, Stahl, Steenson, Stoker, Taylor, Van Dyk, Villa, Warburton, Washburn, Welborn, Wilmer, Wiseman, Mr. Speaker.
Total 90

Nays: Boniek, McGillvray, Mendenhall, Miller, More, Sales, Vance, Vincent, Wagner.
Total 9

Excused: None.
Total 0

Absent or not voting: Wilson.
Total 1

Mr. Speaker moved that **HJR 33** be placed on 3rd reading this the 72nd legislative day. Motion carried.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

HB 386, **as amended by the Senate**, passed as follows:

Yeas: Ankney, Arntzen, Augare, Barrett, Bean, B. Beck, P. Beck, Becker, Belcourt, Bennett, Berry, Blasdel, Blewett, Boland, Boniek, Boss Ribs, Brown, Butcher, Caferro, Campbell, Cohenour, Dickenson, Driscoll, Ebinger, Fleming, French, Furey, Getz, Glaser, Grinde, Hamilton, Hands, Hawk, Hendrick, Henry, Himmelberger, Hiner, Hollandsworth, Hollenbaugh, Hoven, Howard, Hunter, Ingraham, Jones, Jopek, Kasten, Kerns, Klock, Kottel, Lake, MacDonald, MacLaren, Malek, McAlpin, McChesney, McClafferty, McGillvray, McNutt, Mehlhoff, Menahan, Mendenhall, Milburn, Miller, More, Morgan, A. Noonan, P. Noonan, Nooney, O'Hara, Pease-Lopez, Peterson, Phillips, Pomnichowski, Randall, Regier, Reichner, Reinhart, Roberts, Roundstone, Sales, Sands, Sesso, Smith, Sonju, Stahl, Steenson, Stoker, Taylor, Vance, Van Dyk, Villa, Vincent, Wagner, Warburton, Washburn, Welborn, Wilmer, Wilson, Wiseman, Mr. Speaker.
Total 100

Nays: None.
Total 0

Excused: None.
Total 0

Absent or not voting: None.
Total 0

SB 9 concurred in as follows:

Yeas: Arntzen, Augare, Barrett, P. Beck, Becker, Belcourt, Blewett, Boland, Boniek, Boss Ribs, Caferro, Campbell, Cohenour, Dickenson, Driscoll, Ebinger, Fleming, French, Furey, Getz, Glaser, Grinde, Hamilton, Hands, Henry, Himmelberger, Hiner, Hollenbaugh, Hoven, Hunter, Jopek, Klock, Kottel, MacDonald, Malek, McAlpin, McChesney, McClafferty, McNutt, Mehlhoff, Menahan, A. Noonan, P. Noonan, O'Hara, Pease-Lopez, Phillips, Pomnichowski, Reinhart, Roundstone, Sands, Sesso, Stahl, Steenson, Van Dyk, Villa, Wilmer, Wilson, Wiseman, Mr. Speaker.
Total 59

Nays: Ankney, Bean, B. Beck, Bennett, Berry, Blasdel, Brown, Butcher, Hawk, Hendrick, Hollandsworth, Howard, Ingraham, Jones, Kasten, Kerns, Lake, MacLaren, McGillvray, Mendenhall, Milburn, More, Morgan, Nooney, Peterson, Randall, Regier, Reichner, Roberts, Sales, Smith, Sonju, Stoker, Taylor, Vance, Vincent, Wagner,

Warburton, Washburn, Welborn.
Total 40

Excused: None.
Total 0

Absent or not voting: Miller.
Total 1

SB 68 concurred in as follows:

Yeas: Ankney, Arntzen, Augare, Barrett, Bean, B. Beck, P. Beck, Becker, Belcourt, Bennett, Blewett, Boland, Boniek, Boss Ribs, Caferro, Campbell, Cohenour, Dickenson, Driscoll, Ebinger, Fleming, French, Furey, Getz, Glaser, Grinde, Hamilton, Hands, Hawk, Henry, Hiner, Hollandsworth, Hollenbaugh, Hoven, Howard, Hunter, Ingraham, Jones, Jopek, Klock, Kottel, MacDonald, Malek, McAlpin, McChesney, McClafferty, McNutt, Mehlhoff, Menahan, More, Morgan, A. Noonan, P. Noonan, Nooney, O'Hara, Pease-Lopez, Phillips, Pomnichowski, Regier, Reichner, Reinhart, Roberts, Roundstone, Sales, Sands, Sesso, Sonju, Stahl, Steenson, Stoker, Vance, Van Dyk, Villa, Washburn, Wilmer, Wilson, Wiseman, Mr. Speaker.
Total 78

Nays: Berry, Blasdel, Brown, Butcher, Hendrick, Himmelberger, Kasten, Kerns, Lake, MacLaren, McGillvray, Mendenhall, Milburn, Miller, Peterson, Randall, Smith, Taylor, Vincent, Wagner, Warburton, Welborn.
Total 22

Excused: None.
Total 0

Absent or not voting: None.
Total 0

SB 200 concurred in as follows:

Yeas: Ankney, Arntzen, Augare, Barrett, P. Beck, Becker, Belcourt, Blewett, Boland, Boss Ribs, Brown, Caferro, Campbell, Cohenour, Dickenson, Driscoll, Ebinger, Fleming, French, Furey, Getz, Glaser, Grinde, Hamilton, Hands, Henry, Hiner, Hollenbaugh, Hoven, Hunter, Jopek, Kottel, MacDonald, Malek, McAlpin, McChesney, McClafferty, Mehlhoff, Menahan, A. Noonan, P. Noonan, Nooney, O'Hara, Pease-Lopez, Phillips, Pomnichowski, Reichner, Reinhart, Roundstone, Sands, Sesso, Stahl, Steenson, Van Dyk, Villa, Vincent, Washburn, Wilmer, Wilson, Wiseman, Mr. Speaker.
Total 61

Nays: Bean, B. Beck, Bennett, Berry, Blasdel, Boniek, Butcher, Hawk, Hendrick, Himmelberger, Hollandsworth, Howard, Ingraham, Jones, Kasten, Kerns, Klock, Lake, MacLaren, McGillvray, McNutt, Mendenhall, Milburn, Miller, More, Morgan, Peterson, Randall, Regier, Roberts, Sales, Smith, Sonju, Stoker, Taylor, Vance, Wagner, Warburton, Welborn.
Total 39

Excused: None.
Total 0

Absent or not voting: None.
Total 0

SB 228 concurred in as follows:

Yeas: Ankney, Arntzen, Augare, Barrett, Bean, B. Beck, P. Beck, Becker, Belcourt, Bennett, Berry, Blasdel, Blewett, Boniek, Boss Ribs, Brown, Butcher, Caferro, Campbell, Ebinger, Fleming, French, Furey, Getz, Glaser, Grinde, Hamilton, Hands, Hawk, Hendrick, Henry, Himmelberger, Hiner, Hollandsworth, Hoven, Howard, Hunter, Ingraham, Jones, Kasten, Kerns, Klock, Kottel, MacDonald, MacLaren, McAlpin, McChesney, McClafferty, McGillvray, McNutt, Mehlhoff, Menahan, Mendenhall, Milburn, Miller, More, Morgan, P. Noonan, Nooney, O'Hara, Pease-Lopez, Peterson, Phillips, Randall, Regier, Reichner, Reinhart, Roberts, Sales, Sands, Sesso, Smith, Sonju, Stahl, Steenson, Stoker, Taylor, Vance, Villa, Vincent, Wagner, Warburton, Washburn, Welborn, Wilmer, Wilson, Mr. Speaker.
Total 87

Nays: Boland, Cohenour, Dickenson, Driscoll, Hollenbaugh, Jopek, Lake, Malek, A. Noonan, Pomnichowski, Roundstone, Van Dyk, Wiseman.
Total 13

Excused: None.
Total 0

Absent or not voting: None.
Total 0

SB 235 concurred in as follows:

Yeas: Ankney, Arntzen, Augare, Bean, B. Beck, P. Beck, Becker, Belcourt, Berry, Blewett, Boland, Boniek, Boss Ribs, Butcher, Caferro, Campbell, Cohenour, Dickenson, Driscoll, Ebinger, Fleming, French, Furey, Getz, Glaser, Grinde, Hamilton, Hawk, Henry, Himmelberger, Hiner, Hollandsworth, Hollenbaugh, Hoven, Howard, Hunter, Jones, Jopek, Kasten, Klock, Kottel, Lake, MacDonald, MacLaren, Malek, McAlpin, McChesney, McClafferty, Mehlhoff, Menahan, Milburn, Morgan, A. Noonan, O'Hara, Pease-Lopez, Randall, Regier, Reinhart, Roundstone, Sands, Smith, Stahl, Steenson, Stoker, Taylor, Van Dyk, Villa, Washburn, Mr. Speaker.
Total 69

Nays: Barrett, Bennett, Blasdel, Brown, Hands, Hendrick, Ingraham, Kerns, McNutt, Mendenhall, Miller, More, P. Noonan, Nooney, Peterson, Phillips, Pomnichowski, Reichner, Roberts, Sales, Sesso, Sonju, Vance, Vincent, Wagner, Warburton, Welborn, Wilmer, Wilson, Wiseman.
Total 30

Excused: None.
Total 0

Absent or not voting: McGillvray.
Total 1

SB 261 concurred in as follows:

Yeas: Ankney, Arntzen, Barrett, P. Beck, Becker, Belcourt, Blewett, Boland, Boss Ribs, Caferro, Campbell, Cohenour, Dickenson, Driscoll, Ebinger, Fleming, French, Furey, Getz, Glaser, Grinde, Hamilton, Hands, Henry, Hiner, Hollenbaugh, Hunter, Jones, Jopek, Klock, Kottel, MacDonald, Malek, McAlpin, McChesney, McClafferty, Mehlhoff, Menahan, A. Noonan, P. Noonan, O'Hara, Pease-Lopez, Phillips, Pomnichowski, Reichner, Reinhart, Roundstone, Sands, Sesso, Steenson, Stoker, Van Dyk, Villa, Washburn, Wilmer, Wilson, Wiseman, Mr. Speaker.
Total 58

Nays: Augare, Bean, B. Beck, Bennett, Berry, Blasdel, Boniek, Brown, Butcher, Hawk, Hendrick, Himmelberger, Hollandsworth, Hoven, Howard, Ingraham, Kasten, Kerns, Lake, MacLaren, McGillvray, McNutt, Mendenhall, Milburn, Miller, More, Morgan, Nooney, Peterson, Randall, Regier, Roberts, Sales, Smith, Sonju, Stahl, Taylor, Vance, Vincent, Wagner, Warburton, Welborn.
Total 42

Excused: None.
Total 0

Absent or not voting: None.
Total 0

SB 268 concurred in as follows:

Yeas: Arntzen, Barrett, P. Beck, Becker, Belcourt, Blewett, Boland, Boss Ribs, Brown, Butcher, Caferro, Cohenour, Dickenson, Driscoll, Ebinger, Fleming, French, Furey, Getz, Glaser, Grinde, Hamilton, Hands, Hendrick, Henry, Himmelberger, Hiner, Hollenbaugh, Hoven, Howard, Hunter, Kerns, Klock, Kottel, MacDonald, MacLaren, Malek, McAlpin, McChesney, McClafferty, McGillvray, McNutt, Mehlhoff, Menahan, Morgan, A. Noonan, P. Noonan, Nooney, O'Hara, Pease-Lopez, Peterson, Phillips, Pomnichowski, Reinhart, Roberts, Roundstone, Sands, Sesso, Smith, Steenson, Stoker, Taylor, Van Dyk, Villa, Washburn, Wilmer, Wilson, Wiseman.
Total 68

Nays: Ankney, Augare, Bean, B. Beck, Bennett, Berry, Blasdel, Boniek, Campbell, Hawk, Hollandsworth, Ingraham, Jones, Jopek, Kasten, Lake, Mendenhall, Milburn, Miller, More, Randall, Regier, Reichner, Sales, Sonju, Stahl, Vance, Vincent, Wagner, Warburton, Welborn, Mr. Speaker.
Total 32

Excused: None.
Total 0

Absent or not voting: None.
Total 0

SB 290 concurred in as follows:

Yeas: Arntzen, Barrett, B. Beck, P. Beck, Becker, Belcourt, Bennett, Berry, Blasdel, Boland, Boniek, Boss Ribs, Brown, Butcher, Caferro, Campbell, Cohenour, Dickenson, Ebinger, Fleming, French, Furey, Getz, Glaser, Grinde, Hamilton, Hands, Hawk, Hendrick, Henry, Himmelberger, Hiner, Hollandsworth, Hollenbaugh, Hoven, Howard, Hunter, Ingraham, Jones, Jopek, Kasten, Kerns, Klock, Kottel, Lake, MacDonald, MacLaren, Malek, McAlpin, McChesney, McClafferty, McGillvray, McNutt, Mehlhoff, Menahan, Mendenhall, Milburn, Miller, More, Morgan, A. Noonan, P. Noonan, Nooney, O'Hara, Pease-Lopez, Peterson, Phillips, Pomnichowski, Randall, Regier, Reichner, Reinhart, Roberts, Roundstone, Sales, Sands, Sesso, Smith, Sonju, Stahl, Steenson, Stoker, Taylor, Vance, Van Dyk, Vincent, Wagner, Warburton, Washburn, Welborn, Wilmer, Wilson, Wiseman, Mr. Speaker.
Total 94

Nays: Ankney, Augare, Bean, Blewett, Driscoll, Villa.
Total 6

Excused: None.
Total 0

Absent or not voting: None.
Total 0

SB 294 concurred in as follows:

Yeas: Ankney, Arntzen, Augare, Barrett, B. Beck, P. Beck, Becker, Belcourt, Bennett, Berry, Blasdel, Blewett, Boland, Boss Ribs, Brown, Caferro, Campbell, Cohenour, Dickenson, Driscoll, Ebinger, Fleming, French, Furey, Getz, Glaser, Grinde, Hamilton, Hands, Hendrick, Henry, Himmelberger, Hiner, Hollenbaugh, Hoven, Howard, Hunter, Jones, Jopek, Klock, Kottel, MacDonald, MacLaren, Malek, McAlpin, McChesney, McClafferty, McGillvray, McNutt, Mehlhoff, Menahan, Morgan, A. Noonan, P. Noonan, Nooney, O'Hara, Pease-Lopez, Peterson, Phillips, Pomnichowski, Regier, Reichner, Reinhart, Roundstone, Sands, Sesso, Smith, Sonju, Stahl, Steenson, Stoker, Van Dyk, Villa, Warburton, Wilmer, Wilson, Wiseman, Mr. Speaker.
Total 78

Nays: Bean, Boniek, Butcher, Hawk, Hollandsworth, Ingraham, Kasten, Kerns, Lake, Mendenhall, Milburn, Miller, More, Randall, Roberts, Sales, Taylor, Vance, Vincent, Wagner, Washburn, Welborn.
Total 22

Excused: None.
Total 0

Absent or not voting: None.
Total 0

SB 305 concurred in as follows:

Yeas: Ankney, Arntzen, Augare, Barrett, Bean, B. Beck, P. Beck, Becker, Belcourt, Bennett, Berry, Blewett, Boland, Boniek, Boss Ribs, Brown, Butcher, Caferro, Campbell, Cohenour, Dickenson, Ebinger, Fleming, French, Furey, Getz, Glaser, Grinde, Hamilton, Hands, Hawk, Hendrick, Henry, Himmelberger, Hiner, Hollandsworth, Hollenbaugh, Hoven, Howard, Hunter, Ingraham, Jones, Jopek, Kasten, Kerns, Klock, Kottel, Lake, MacDonald, MacLaren, Malek, McAlpin, McChesney, McClafferty, McGillvray, McNutt, Mehlhoff, Menahan, Milburn, Miller, More, A. Noonan, P. Noonan, Nooney, O'Hara, Pease-Lopez, Peterson, Phillips, Pomnichowski, Randall, Regier, Reichner, Reinhart, Roberts, Roundstone, Sales, Sands, Sesso, Smith, Sonju, Stahl, Steenson, Stoker, Taylor, Vance, Van Dyk, Villa, Vincent, Warburton, Washburn, Welborn, Wilmer, Wilson, Mr. Speaker.
Total 94

Nays: Blasdel, Driscoll, Mendenhall, Morgan, Wagner, Wiseman.
Total 6

Excused: None.
Total 0

Absent or not voting: None.
Total 0

SB 330 concurred in as follows:

Yeas: Augare, Barrett, P. Beck, Becker, Belcourt, Berry, Blewett, Boland, Boss Ribs, Caferro, Campbell, Cohenour, Dickenson, Driscoll, Ebinger, Fleming, French, Furey, Getz, Glaser, Grinde, Hamilton, Hands, Henry, Hiner, Hollenbaugh, Hoven, Hunter, Jopek, Kottel, MacDonald, MacLaren, Malek, McAlpin, McChesney, McClafferty, Mehlhoff, Menahan, Morgan, A. Noonan, P. Noonan, Nooney, O'Hara, Pease-Lopez, Phillips, Pomnichowski,

Reinhart, Roundstone, Sands, Sesso, Steenson, Van Dyk, Villa, Wilmer, Wilson, Wiseman, Mr. Speaker.
Total 57

Nays: Ankney, Arntzen, Bean, B. Beck, Bennett, Blasdel, Boniek, Brown, Butcher, Hawk, Hendrick, Himmelberger, Hollandsworth, Howard, Ingraham, Jones, Kasten, Kerns, Klock, Lake, McGillvray, McNutt, Mendenhall, Milburn, Miller, More, Peterson, Randall, Regier, Reichner, Roberts, Sales, Smith, Sonju, Stahl, Stoker, Taylor, Vance, Vincent, Wagner, Warburton, Washburn, Welborn.
Total 43

Excused: None.
Total 0

Absent or not voting: None.
Total 0

SB 396 concurred in as follows:

Yeas: Ankney, Arntzen, Augare, Barrett, Bean, B. Beck, P. Beck, Becker, Belcourt, Bennett, Berry, Blasdel, Blewett, Boland, Boniek, Boss Ribs, Brown, Butcher, Caferro, Campbell, Cohenour, Dickenson, Driscoll, Ebinger, Fleming, French, Furey, Getz, Glaser, Grinde, Hamilton, Hands, Hawk, Hendrick, Henry, Himmelberger, Hiner, Hollandsworth, Hollenbaugh, Hoven, Howard, Hunter, Ingraham, Jones, Jopek, Kasten, Kerns, Klock, Kottel, Lake, MacDonald, MacLaren, Malek, McAlpin, McChesney, McClafferty, McGillvray, McNutt, Mehlhoff, Menahan, Mendenhall, Milburn, Miller, More, Morgan, A. Noonan, P. Noonan, Nooney, O'Hara, Pease-Lopez, Peterson, Phillips, Pomnichowski, Randall, Regier, Reichner, Reinhart, Roberts, Roundstone, Sales, Sands, Sesso, Smith, Sonju, Steenson, Stoker, Taylor, Vance, Van Dyk, Villa, Vincent, Wagner, Warburton, Washburn, Welborn, Wilmer, Wilson, Wiseman, Mr. Speaker.
Total 99

Nays: None.
Total 0

Excused: None.
Total 0

Absent or not voting: Stahl.
Total 1

SB 427 concurred in as follows:
Yeas: Ankney, Arntzen, Augare, Barrett, Bean, B. Beck, P. Beck, Becker, Belcourt, Bennett, Berry, Blasdel, Blewett, Boland, Boniek, Boss Ribs, Brown, Butcher, Caferro, Campbell, Cohenour, Dickenson, Driscoll, Ebinger, Fleming, French, Furey, Getz, Glaser, Grinde, Hamilton, Hands, Hawk, Hendrick, Henry, Himmelberger, Hiner, Hollandsworth, Hollenbaugh, Hoven, Howard, Hunter, Ingraham, Jones, Jopek, Kasten, Kerns, Klock, Kottel, Lake, MacDonald, MacLaren, Malek, McAlpin, McChesney, McClafferty, McGillvray, McNutt, Mehlhoff, Menahan, Mendenhall, Milburn, Miller, More, Morgan, A. Noonan, P. Noonan, Nooney, O'Hara, Pease-Lopez, Peterson, Phillips, Pomnichowski, Randall, Regier, Reichner, Reinhart, Roberts, Roundstone, Sales, Sands, Sesso, Smith, Sonju, Stahl, Steenson, Stoker, Taylor, Vance, Van Dyk, Villa, Vincent, Wagner, Warburton, Washburn, Welborn, Wilmer, Wilson, Wiseman, Mr. Speaker.
Total 100

Nays: None.
Total 0

Excused: None.
Total 0

Absent or not voting: None.
Total 0

SB 442 concurred in as follows:

Yeas: Ankney, Arntzen, Augare, Barrett, Bean, P. Beck, Becker, Belcourt, Blewett, Boland, Boniek, Boss Ribs, Brown, Butcher, Caferro, Campbell, Cohenour, Dickenson, Driscoll, Ebinger, Fleming, French, Furey, Getz, Glaser, Grinde, Hamilton, Hands, Hendrick, Henry, Hiner, Hollenbaugh, Hoven, Hunter, Ingraham, Jones, Jopek, Kasten, Klock, Kottel, MacDonald, Malek, McAlpin, McChesney, McClafferty, McNutt, Mehlhoff, Menahan, More, Morgan, A. Noonan, P. Noonan, Nooney, O'Hara, Pease-Lopez, Peterson, Phillips, Pomnichowski, Reinhart, Roberts, Roundstone, Sands, Sesso, Stahl, Steenson, Stoker, Taylor, Van Dyk, Villa, Warburton, Washburn, Welborn, Wilmer, Wilson, Wiseman, Mr. Speaker.
Total 76

Nays: B. Beck, Bennett, Berry, Blasdel, Hawk, Himmelberger, Hollandsworth, Howard, Kerns, Lake, MacLaren, McGillvray, Mendenhall, Milburn, Miller, Randall, Regier, Reichner, Sales, Smith, Sonju, Vance, Vincent, Wagner.
Total 24

Excused: None.
Total 0

Absent or not voting: None.
Total 0

SB 447 concurred in as follows:

Yeas: Ankney, Arntzen, Augare, Barrett, B. Beck, P. Beck, Becker, Belcourt, Berry, Blasdel, Blewett, Boland, Boniek, Boss Ribs, Brown, Butcher, Caferro, Campbell, Cohenour, Dickenson, Driscoll, Ebinger, Fleming, French, Furey, Getz, Glaser, Grinde, Hamilton, Hands, Hendrick, Henry, Hiner, Hollandsworth, Hollenbaugh, Hoven, Hunter, Ingraham, Jones, Jopek, Kasten, Klock, Kottel, Lake, MacDonald, MacLaren, Malek, McAlpin, McChesney, McClafferty, Mehlhoff, Menahan, Milburn, Morgan, A. Noonan, P. Noonan, Nooney, O'Hara, Pease-Lopez, Phillips, Pomnichowski, Regier, Reinhart, Roberts, Roundstone, Sands, Sesso, Sonju, Stahl, Steenson, Stoker, Taylor, Vance, Van Dyk, Villa, Vincent, Wagner, Warburton, Washburn, Welborn, Wilmer, Wilson, Wiseman, Mr. Speaker.
Total 84

Nays: Bean, Bennett, Hawk, Himmelberger, Howard, Kerns, McGillvray, McNutt, Mendenhall, Miller, More, Peterson, Randall, Reichner, Sales, Smith.
Total 16

Excused: None.
Total 0

Absent or not voting: None.
Total 0

SB 457 concurred in as follows:

Yeas: Ankney, Arntzen, Augare, Barrett, B. Beck, P. Beck, Becker, Belcourt, Berry, Blewett, Boland, Boss Ribs, Caferro, Campbell, Cohenour, Dickenson, Driscoll, Ebinger, Fleming, French, Furey, Getz, Glaser, Grinde, Hamilton, Hands, Henry, Himmelberger, Hiner, Hollenbaugh, Hoven, Hunter, Ingraham, Jopek, Klock, Kottel, MacDonald, MacLaren, Malek, McAlpin, McChesney, McClafferty, McNutt, Mehlhoff, Menahan, Milburn, Morgan, A. Noonan, P. Noonan, Nooney, O'Hara, Pease-Lopez, Peterson, Phillips, Pomnichowski, Reinhart, Roberts, Roundstone, Sands, Sesso, Sonju, Stahl, Steenson, Taylor, Van Dyk, Villa, Wagner, Washburn, Wilmer, Wilson, Wiseman, Mr. Speaker.
Total 72

Nays: Bean, Bennett, Blasdel, Boniek, Brown, Butcher, Hawk, Hendrick, Hollandsworth, Howard, Jones, Kasten, Kerns, Lake, McGillvray, Mendenhall, Miller, More, Randall, Regier, Reichner, Sales, Smith, Stoker, Vance, Vincent, Warburton, Welborn.
Total 28

Excused: None.
Total 0

Absent or not voting: None.
Total 0

SJR 17 concurred in as follows:

Yeas: Ankney, Augare, Barrett, B. Beck, P. Beck, Becker, Belcourt, Berry, Blewett, Boland, Boniek, Boss Ribs, Butcher, Caferro, Campbell, Cohenour, Dickenson, Driscoll, Ebinger, Fleming, French, Furey, Getz, Glaser, Grinde, Hamilton, Hands, Hendrick, Henry, Hiner, Hollandsworth, Hollenbaugh, Hunter, Jones, Jopek, Kasten, Klock, Kottel, Lake, MacDonald, MacLaren, Malek, McAlpin, McChesney, McClafferty, McGillvray, McNutt, Mehlhoff, Menahan, A. Noonan, P. Noonan, Nooney, O'Hara, Pease-Lopez, Phillips, Pomnichowski, Regier, Reichner, Reinhart, Roundstone, Sands, Sesso, Stahl, Steenson, Stoker, Taylor, Van Dyk, Villa, Warburton, Welborn, Wilmer, Wilson, Wiseman, Mr. Speaker.
Total 74

Nays: Arntzen, Bean, Bennett, Blasdel, Brown, Hawk, Himmelberger, Hoven, Howard, Ingraham, Kerns, Mendenhall, Milburn, Miller, More, Morgan, Peterson, Randall, Roberts, Sales, Smith, Sonju, Vance, Vincent, Wagner, Washburn.
Total 26

Excused: None.
Total 0

Absent or not voting: None.
Total 0

HJR 33 concurred in as follows:

Yeas: Ankney, Arntzen, Augare, Barrett, B. Beck, P. Beck, Becker, Belcourt, Berry, Blewett, Boland, Boss Ribs, Brown, Butcher, Caferro, Campbell, Cohenour, Dickenson, Driscoll, Ebinger, Fleming, French, Furey, Getz, Glaser, Grinde, Hamilton, Hands, Hawk, Hendrick, Henry, Hiner, Hollandsworth, Hollenbaugh, Hoven, Hunter, Jones, Jopek, Klock, Kottel, MacDonald, MacLaren, Malek, McAlpin, McChesney, McClafferty, McNutt, Mehlhoff, Menahan, Morgan, A. Noonan, P. Noonan, Nooney, O'Hara, Pease-Lopez, Phillips, Pomnichowski, Reinhart, Roberts, Roundstone, Sands, Sesso, Steenson, Stoker, Taylor, Van Dyk, Villa, Warburton, Washburn, Welborn, Wilmer, Wilson, Wiseman, Mr. Speaker.

Total 74

Nays: Bean, Bennett, Blasdel, Boniek, Howard, Ingraham, Kasten, Kerns, McGillvray, Mendenhall, Milburn, Miller, More, Peterson, Randall, Regier, Reichner, Sales, Smith, Sonju, Stahl, Vance, Vincent, Wagner.
Total 24

Excused: None.
Total 0

Absent or not voting: Himmelberger, Lake.
Total 2

MOTIONS

Rep. Campbell moved the Conference Committee on **HB 622** be dissolved and that the Speaker be authorized to appoint a **FREE** Conference Committee on **HB 622**.

Speaker Bergren:
The Speaker Appoints
Rep. Dickenson, Vice-Chair
Rep. Hands
Rep. MacLaren
Rep. Himmelberger

Rep. Campbell moved that the Speaker be authorized to appoint a conference committee on **SB 48** and request that Senate to appoint a like committee.

Speaker Bergren:

Senate Appoints
Sen. Esp, Chair
Sen. Gillian
Sen. Tutvedt

The Speaker Appoints
Rep. Pomnichowski, Vice-Chair
Rep. Wiseman
Rep. Lake
Rep. Blasdel

Rep. MacLaren moved to reconsider 3rd reading actions taken yesterday on **SB 306.** Motion requires simple majority vote. Motion carried as follows:

Yeas: Ankney, Arntzen, Augare, Barrett, Bean, B. Beck, P. Beck, Belcourt, Bennett, Berry, Blasdel, Boniek, Brown, Butcher, Caferro, Campbell, Dickenson, Ebinger, French, Furey, Glaser, Grinde, Hawk, Hendrick, Henry, Himmelberger, Hiner, Hollandsworth, Hoven, Howard, Hunter, Ingraham, Jones, Jopek, Kasten, Kerns, Klock, Kottel, MacDonald, MacLaren, McChesney, McClafferty, McGillvray, McNutt, Menahan, Mendenhall, Milburn, Miller, More, Morgan, A. Noonan, P. Noonan, Nooney, O'Hara, Pease-Lopez, Peterson, Phillips, Randall, Regier, Reichner, Roberts, Roundstone, Sales, Sands, Sesso, Smith, Sonju, Stahl, Steenson, Stoker, Taylor, Vance, Van Dyk, Villa, Vincent, Wagner, Warburton, Washburn, Welborn, Wilmer, Wilson, Wiseman.
Total 82

Nays: Becker, Blewett, Boss Ribs, Cohenour, Driscoll, Fleming, Getz, Hamilton, Hands, Hollenbaugh, Malek, McAlpin, Mehlhoff, Pomnichowski, Reinhart, Mr. Speaker.
Total 16

Excused: None.
Total 0

Absent or not voting: Boland, Lake.
Total 2

Rep. Campbell move that **SJR 25** be moved to the Appropriations Committee. Motion carried.

ANNOUNCEMENTS

House pictures will be on Thursday. Staff will begin at 12:00 p.m. Legislators photos will be at 12:30. Please be on time.

Committee meetings were announced by the committee chairs.

Representative Campbell moved that the House adjourn until 1:00 p.m., Thursday, April 2, 2009. Motion carried.

House adjourned at 2:57 p.m.

DAVE HUNTER
Chief Clerk of the House

BOB BERGREN
Speaker of the House